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No. 48] NEW DELHI, SATURDAY, DECEMBER 2, 1989/AGRAHAYANA 11, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि एवं स्थाय मंत्रालय

(विधि कार्य विभाग)

सूचना

नई दिल्ली, 15 नवम्बर, 1989

का.प्रा. 3022.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में
मक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री दौलत एल.
पारस्वानी ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन
एक आवेदन इस बात के लिए दिया है कि उसे समस्त भारत में
व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार
का आक्षेप हम सूचना के प्रकाशन के तत्पश्चात् के भीतर लिखित रूप
में मेरे पास भेजा जाए।

[सं. 5(77)/89-न्या.]

के.एल. जर्मा, मक्षम प्राधिकारी

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

NOTICE

New Delhi, the 15th November, 1989

S.O. 3022.—Notice is hereby given by the Competent
Authority in pursuance of rule 6 of the Notaries, 1956,
that application has been made to the said Authority, under
rule 4 of the said Rules, by Shri Daulat L. Parswanil @
L. P. Daulat, for appointment as a Notary to practise in
whole of India.

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this Notice.

[No. F. 5 (77)/89-Judl.]

K. L. SARMA, Competent Authority

कार्यिक, लोक शिक्षा तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 18 नवम्बर, 1989

का.प्रा. 3023.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम,
1946 (1946 का 25) की धारा 6 के साथ पठित, धारा 5 की
उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते, हुए उत्तरप्रदेश
राज्य सरकार की सहमति से निम्नलिखित अपराधों के अन्वेषण के लिए
दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता
का विस्तारण संपूर्ण उत्तर प्रदेश राज्य पर करती है :

(क) उत्तर प्रदेश राज्य में श्री मोहम्मद शफी. निवासी ग्राम-बुद्ध,
का पुरवा की हत्या के संबंध में शाना जगदीशपुर, जिला सुल्तानपुर में
रजिस्ट्रीकृत मामला अपराध सं. 97/89 से संबंधित दंड संहिता, 1860
(1860 का 45) की धारा 302/120-वी के अधीन दण्डनीय अपराध।

(ख) ऊपर लिखित एक या उससे अधिक अपराधों और उन्हीं तथ्यों
से उद्भूत होने वाले उसी संव्यवहार के अनुक्रम में किए गए किसी अन्य

अपराध या अपराधों के संबंध में या उनसे संलग्न प्रयत्न, दुष्प्रेरक और
परिणाम ।

[सं. 228/48/89-ए.पी.डी. (II)]

जी. सीतारामन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS

(Department of Personnel and Training)

ORDER

New Delhi, the 18th November, 1989

S.O. 3023.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6, of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Uttar Pradesh, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of offences as hereunder :

- (a) Offences punishable under sections 302/120-B of the Indian Penal Code 1860 (45 of 1860) in regard to case Crime No 97/89 relating to the murder of Shri Mohammed Shami, resident of village Buddhu Ka Purva, registered at Police Station Jagdishpur, District Sultanpur in the State of Uttar Pradesh;
- (b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts

[No. 228/48/89-AVD.II]

G. SITARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 2 नवम्बर, 1989

स्टाम्प

का.प्रा. 3024:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा मै. हिन्दुस्तान विकास निगम लि., कलकत्ता को तीन लाख और पचाहत्तर हजार रु. मात्र के उस समेकित स्टाम्प शुल्क का भुगतान करने की अनुमति प्रदान करती है जो उक्त कंपनी द्वारा जारी किए जाने वाले 100-100 रु. के 5,00,000—15% सुरक्षित असम्पत्तिवर्तीय ऋण-पत्रों (श्रृंखला VI) पर, जिनके विशिष्ट नम्बर 2100001 से 2600000 हैं, स्टाम्प शुल्क के कारण प्रभाव्य हैं।

[सं. 59/89/स्टाम्प फा.सं. 33/64/89-वि.क.]

MINISTRY OF FINANCE

(Department of Revenue)

ORDERS

New Delhi, the 2nd November, 1989

STAMP

S.O. 3024.—In exercise of the powers conferred by clause (b) of Sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. Hindustan Development

Corporation Limited, Calcutta to pay consolidated stamp duty of rupees three lakhs and seventy five thousand only, chargeable on account of the stamp duty on 5,00,000—15 per cent secured non-convertible debentures of Rs. 100 each (Series VI) and bearing distinctive numbers 2100001 to 2600000 to be issued by the said company.

[No. 59/89 Stamps F. No. 33/64/89-ST]

नई दिल्ली, 10 नवम्बर, 1989

स्टाम्प

का.प्रा. 3025:—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो नेवेली लिग्नाइट कार्पोरेशन लि. द्वारा जारी किए जाने वाले 120 करोड़ रु. (एक सौ बीस करोड़ रु. मात्र) मूल्य के एक-एक हजार रु. के असम्पत्तिवर्तीय ऋण-पत्रों के रूप में 'डी' श्रृंखला 9 प्रतिशत निःशुल्क और 13 प्रतिशत कराधेय सुरक्षित विमोच्य बंधपत्रों पर उक्त अधिनियम के अन्तर्गत प्रभाव्य हैं।

[सं. 60/89-स्टाम्प-फा.सं. 33/63/89-वि.क.]

वी.के. स्वामीनाथन, अवर सचिव

New Delhi, the 10th November, 1989

STAMPS

S.O. 3025.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the 'D' series 9% tax-free and 13% taxable secured redeemable bonds in the form of non-convertible Debentures of Rs. 1000 (Rupees one thousand only) each to the value of Rs. 120 crores (Rupees one hundred and twenty crores rupees only) to be issued by Neyveli Lignite Corporation Limited are chargeable under the said Act.

[No. 60/89-Stamps-F. No. 33/63/89-ST]

V. K. SWAMINATHAN, Under Secy.

(आर्थिक कार्य विभाग)

(वैकिंग प्रभाग)

नई दिल्ली, 17 नवम्बर, 1989

का. प्रा. 3026:—केन्द्रीय सरकार, औद्योगिक वित्त निगम अधिनियम 1948 (1948 का 15) की धारा 21 की उप-धारा (2) के अनुसरण में भारतीय औद्योगिक वित्त निगम के निवेशक बोर्ड की सिफारिश पर उक्त निगम द्वारा पहली जनवरी, 1990 से 31 दिसम्बर, 1990 की अवधि के लिए जारी किए जाने वाले बांडों पर देय व्याज की दर एतद्वारा 10% (दस प्रतिशत) वार्षिक निर्धारित करती है।

[फा.सं. 6(21)-आर्.एफ. 1/88]

वी.पी. भारद्वाज, अवर सचिव

(Deptt. of Economic Affairs)

(Banking Division)

New Delhi, the 17th November, 1989

S.O. 3026.—In pursuance of sub-section (2) of section 21 of the Industrial Finance Corporation Act, 1948 (15 of 1948), the Central Government, on the recommendation of the Board of Directors of the Industrial Finance Corporation of India, hereby fixes 10% (Ten percent) per annum as the rate of interest payable on the bonds having currency during the period of 1st January, 1990 to 31st December 1990, to be issued by the said Corporation.

[F. No. 6(21)-IF.I/88]

V. P. BHARDWAJ, Under Secy.

कार्यालय समालोचन, केन्द्रीय उत्पाद शुल्क

अधिसूचना-230/1989

इन्दौर, 10 नवम्बर, 1989

का.प्र. 3027 -- समस्त केन्द्रीय उत्पाद शुल्क क्लर्क के श्री डी. आर. धान्दे, प्रशासनिक अधिकारी, समूह 'ख' निवृत्तन आयु प्राप्त करने पर दिनांक 31-10-89 को अवसरा में सेवा से निवृत्त हो गए।

[प्र.गं. II(3)8-गो/89]

वाल कृष्ण अग्रवाल, समाह्वी

CENTRAL EXCISE COLLECTORATE

NOTIFICATION NO. 230/1989

Indore, 10th November, 1989

S.O. 3027.—Shri D. R. Dhandre, Administrative Officer, Central Excise, Group 'B' of Indore Collectorate having attained the age of superannuation retired from Government Service on 31-10-1989 (A/N).

[C. No. II(3)8-Con[89]

B. K. AGARWAL, Collector

आयकर आयुक्त का कार्यालय, कोचिन

(आयकर विभाग)

कोचिन, 29 नवम्बर, 1989

का.प्र. 3028 -- केन्द्रीय सरकार की राय में धन कर अधिनियम, 1957 की धारा 42-क के अंतर्गत निवृत्तिपत्रों के नाम और अन्य विशिष्टियों को प्रकाशित किया जाना लोकाहित में आवश्यक और समीचीन है। अतः कोचिन आयकर आयुक्त प्रभार में विस्तृत वर्ष 1988-89 के दौरान 10 लाख रुपये से अधिक शुद्ध धन पर धनकर अधिनियम 1957 (1957 का 27) के अधिनियम कर निर्धारित छिप गए निम्नलिखित व्यक्तियों (ए.से. सूचित किया गया है) के नाम और अन्य विशिष्टियों जैसे (1) निवृत्तिपत्र वर्ष (2) विवरणों में दिखाया गया धन (3) निर्धारित धन (4) देयकर (5) प्रदान कर (सभी रुकम रुप में) एतद्वारा प्रकाशित किए जाते हैं।

व्यक्ति (1)

1. अशु, केम्पल, बगडर (1) 84-85 (2) 17, 41,800 (3) 17,41,800 (4) 40,532 (5) 39,634।
2. --वही-- (1) 85-86 (2) 20,74,800 (3) 20,74,800 (4) 57,500 (5) 60,347।
3. डॉ. आर्ता जोग, जे. ए. शास्त्रि, चालकुडी (1) 86-87 (2) 10,09,700 (3) 10,09,700 (4) 3,830 (5) 3,830।
4. धनु. सी. चित्तपाल हांस, पेक्कड्यू (1) 87-88 (2) 9,51,600 (3) 11,47,100 (4) 7,724 (5) 7,724।
5. अश्वार्थ ए.के. मंडल हांस, बैंगोला, पेक्कड्यू (1) (88-89) (2) 14,07,750 (3) 15,31,200 (4) 9,969 (5) 9,969।
6. पो.पो. अलबी हांस, पुरयन परबील हांस, हरिणावूर, तंशूर (1) 84-85 (2) 10,30,678 (3) 10,34,200 (4) 14,773 (5) 14,672।
7. मिसीम, धनु कुरन, दोरका बगलाव, कोचिन-1 (1) 86-87 (2) 7,67,300 (3) 11,68,400 (4) 5,433 (5) 5,433।
8. --वही-- (1) 87-88 (2) 11,01,000 (3) 13,74,700 (4) 9,496 (5) 9,496।

9. --वही-- (1) 88-89 (2) 12,31,700 (3) 15,41,400 (4) 10,081 (5) 10,081।
10. अशु जेकर, अजय बिहार, कोचिन-16 (1) 86-87 (2) 10,08,100 (3) 10,08,100 (4) 3,831 (5) 3,831।
11. --वही-- (3) 87-88 (2) 18,47,000 (3) 18,47,000 (4) 12,221 (5) 12,221।
12. --वही-- (1) 88-89 (2) 23,77,605 (3) 23,77,600 (4) 23,431 (5) 23,432।
13. एलोयस जेकर, एमथरी एण्डरसस, बानरजी रोड, एरणाकुलम, (1) 86-87 (2) 12,69,400 (3) 12,69,400 (4) 6,444 (5) 6,444।
14. --वही-- (1) 87-88 (2) 15,95,500 (3) 15,95,500 (4) 9,705 (5) 9,705।
15. --वही-- (1) 88-89 (2) 15,28,000 (3) 15,28,000 (4) 9,933 (5) 9,933।
16. के. पी. अब्दुल करीम, टी. जी. रोड, एरणाकुलम (1) 84-85 (2) 9,90,847 (3) 10,77,500 (4) 16,076 (5) 13,565।
17. डा. एम. ए. अब्दुल जवार, द्वारा आर. जी. एन. प्रैस एंड कं. सीएस, एरणाकुलम, (1) 82-83 (2) 51,00,856 (3) 56,10,200 (4) 2,34,262 (5) 2,03,852।
18. --वही-- (1) 83-84 (2) 57,26,700 (3) 63,33,400 (4) 2,70,420 (5) 2,28,652।
19. सी. यू. बेबी, फेवर प्रैस, ज्यूस स्ट्रीट, एरणाकुलम, (1) 84-85 (2) 7,54,811 (3) 10,15,203 (4) 14,206 (5) 9,218।
20. --वही-- (1) 85-86 (2) 7,90,678 (3) 10,84,224 (4) 16,276 (5) 10,076।
21. बापू के. सन थोफ मोहम्मद ऐरर, चेगारकुलम (1) 86-87 (2) 10,70,400 (3) 10,74,900 (4) 4,454 (5) 4,454।
22. --वही-- (1) 87-88 (2) 11,53,200 (3) 11,58,500 (4) 5,252 (5) 5,252।
23. बाबूबाय घाम्जी, इण्डरनाथन स्पैस, कोचिन-2 (1) 88-89 (2) 13,45,600 (3) 13,45,600 (4) 7,926 (5) 7,926।
24. बाबू जोर्जा, जीयो टेक फण्ट्रबसन फोरपोरेशन, पनपील्ली नगर, कोचिन-16 (1) 85-86 (2) 11,61,800 (3) 13,68,900 (4) 24,816 (5) 18,052।
25. --वही-- (1) 86-87 (2) 8,73,800 (3) 12,53,500 (4) 6,234 (5) 3,103।
26. मिसीम. कातलैन पापु, चाक्कोला भवन, मिपन क्यारटेस, तृशूर, (1) 84-85, (2) 15,18,500 (3) 15,18,500 (4) 29,645 (5) 29,645।
27. दीलीपकुमार के. मेस्ता, द्वारा सी. के.एम. मेस्ता एंड कं., कोचिन-2 (1) 88-89 (2) 10,17,800 (3) 10,57,700 (4) 4,760 (5) 4,418।
28. गलडीम एस. फोडर, 32, चर्च रोड, कोचिन-1 (1) 84-85 (2) 29,67,400 (3) 29,67,400 (4) 86,230 (5) 86,230।
29. --वही-- (1) 85-86 (2) 28,29,800 (3) 28,29,800 (4) 80,280 (5) 80,280।

30. गलबस एस. कोडर, 32 चर्च रोड, को चिन-1 (1) 86-87 (2) 28,06,600 (3) 28,06,600 (4) 25,880 (5) 25,880।
31. एम. जे. जोर्जा, जोस एलमट्रनस, एम. जी. रोड, एरणाकुलम, (1) 84-85 (2) 8,31,400 (3) 11,37,400 (4) 17,352 (5) 10,380।
32. हसन पी. एम., चायकाड, (1) 84-85 (2) 11,18,200 (3) 11,18,200 (4) 17,296 (5) 17,281।
33. -वही- (1) 85-86 (2) 12,01,600 (3) 12,01,600 (4) 19,798 (5) 19,779।
34. हसन के. के. रीयाद मंजिल, धालुवाय, (1) 85-86 (2) 15,03,200 (3) 15,03,200 (4) 28,910 (5) 28,910।
35. -वही- (1) 86-87 (2) 22,92,600 (3) 22,92,600 (4) 19,602 (5) 19,602।
36. पी. के. हंसा हाजी, पी. ए. होल्डर कुर्जाबाबा हाजी, तीरु, (1) 83-84 (2) 10,35,400 (3) 16,06,500 (4) 34,063 (5) 871।
37. -वही- (1) 84-85 (2) 21,16,100 (3) 31,29,600 (4) 1,10,230 (5) 1,360।
38. इब्राहिमकुटी के. द्वारा मोहम्मद हाजीयार, पोम्पानी (1) 86-87 (2) 11,35,900 (3) 11,93,000 (4) 5,680 (5) 5,109।
39. -वही- (1) 87-88 (2) 11,93,000 (3) 11,93,000 (4) 5,680 (5) 5,680।
40. -वही- (1) 88-89 (2) 11,66,710 (3) 11,67,300 (4) 5,422 (5) 5,959।
41. जोस ग्रान्थणी तुलुवल, पारप्परम्बू कलूर रोड, कोचिन, (1) 84-85 (2) 45,05,600 (3) 45,05,600 (4) 1,79,033 (5) 1,79,033।
42. जोण मायु के., तोडुपुपा, (1) 84-85 (2) 16,68,800 (3) 16,28,300 (4) 37,475 (5) 35,451।
43. -वही- (1) 85-86 (2) 22,00,900 (3) 21,26,700 (4) 63,795 (5) 60,086।
44. ए. यु. जमीला, 39/795, आरंगत् कोस रोड, पुल्लेप्पडी, एरणा-कुलम (1) 85-86 (2) 10,60,400 (3) 10,79,900 (4) 15,661 (5) 15,560।
45. कृष्णकुमार के., कृष्ण एंड कं., कलवती, कोचिन (1) 88-89 (2) 15,70,000 (3) 15,48,900 (4) 10,395 (5) 10,052।
46. किशोरमल अमल, मैसर्स सिंगल ब्रदर्स, कोचिन-2 (1) 88-89 (2) 26,69,000 (3) 26,69,000 (4) 29,843 (5) 29,843।
47. जी. कनल. वाय, 12/548, मांतरा रोड, कोचिन-2 (1) 87-88 (2) 9,62,770 (3) 10,50,330 (4) 4,252 (5) 4,252।
48. पी. पी. खादर हाजी, अहम्मद मंजिल, 27/1038, समाधी रोड, कोचिन-16, (1) 85-86 (2) 32,12,000 (3) 34,81,000 (4) 1,15,918 (5) 1,08,905।
49. ए. के. कबीर, कोलटन हास. बैंक रोड, कोचिन-17, (1) 87-88 (2) 10,90,400 (3) 10,90,400 (4) 4,608 (5)
50. लूसी कोचुवरीद, तटटील हास. लाटीन चर्च रोड, तृणूर, (1) 79-80 (2) 12,62,100 (3) 12,62,100 (4) 20,300 (5) 20,300।
51. -वही- (1) 80-81 (2) 12,01,900 (3) 12,01,900 (4) 19,807 (0) 19,807।
52. -वही- (1) 81-82 (2) 15,16,700 (3) 15,16,700 (4) 29,286 (5) 29,286।
53. -वही- (1) 82-83 (2) 17,00,500 (3) 17,00,500 (4) 29,285 (5) 29,286।
54. -वही- (1) 83-84 (2) 16,12,100 (3) 16,12,100 (4) 34,329 (5) 34,329।
55. -वही- (1) 84-85 (2) 17,30,200 (3) 17,30,200 (4) 40,257 (5) 40,257।
56. ई. बी. गुसा हाजी, ब्ल्यू स्टार टूरिस्ट होम, बडकरा (1) 84-85 (2) 10,06,500 (3) 10,06,500 (4) 13,943 (5) 13,670।
57. मोहन तोमन, पोरबन बंगलाय, कोचिन-1, (1) 86-87 (2) 13,86,300 (3) 15,44,400 (4) 9,144 (5) 9,144।
58. -वही- (1) 87-88 (2) 14,37,300 (3) 17,25,800 (4) 11,008 (5) 11,008।
59. -वही- (1) 88-89 (2) 6,42,500 (3) 17,51,200 (4) 12,388 (5) 12,388।
60. मोली एसक, मैसर्स पोल पी. रिपन एंड कं., एरणाकुलम, (1) 88-89 (2) 9,00,070 (3) 11,46,100 (4) 5,732 (5) 5,732।
61. मोहम्मद एलिस बाबु सैट, 39/517, कृष्णास्वामी कोस रोड, कोचिन-35, (1) 84-85 (2) 10,96,200 (3) 10,96,200 (4) 16,634 (5) 16,634।
62. मेरी जोण, गोश्रीस हारडवेयर्स, कल्पेत बमार रोड, एरणाकुलम, (1) 87-88 (2) 9,13,200 (3) 13,37,600 (4) 7,126 (5) 3,316।
63. निरमलावन कायकुबाय, कृष्णा एंड कं., कलवती, कोचिन, (1) 88-89 (2) 22,24,000 (3) 21,58,600 (4) 19,651 (5) 18,213।
64. निसीस आर. ए. पालाट, पालाट एस्टेट, वेस्ट फोर्ट रोड, पातघाट (1) 86-87 (2) 8,66,700 (3) 11,11,400 (4) 4,864 (5) 4,864।
65. -वही- (1) 87-88 (2) 9,62,100 (3) 12,01,400 (4) 5,764 (5) 5,764।
66. निसीस आर. ए. पालाट -वही- (1) 88-89 (2) 11,63,800 (3) 12,67,000 (4) 7,062 (5) 7,062।
67. पी. पी. एन. पीले, सी. यू. चाक्का एंड गन्स, वरवीपुरम, कोचिन-16, (1) 87-88 (2) 12,57,100 (3) 13,24,200 (4) 6,991 (5) 6,024।
68. एस. बी. पै, मैसर्स पैको. एम. जी. रोड, एरणाकुलम, (1) 84-85 (2) 2,000 (3) 13,00,600 (4) 22,104 (5) ..
69. आर. एम. रामस्वामी, जेनरल मानेजर, वेस्टर्न इंडिया कोटटनस्, पाप्पीनीश्वरी, (1) 88-89 (2) 12,18,000 (3) 12,18,000 (4) 6,523 (6) 6,523।
70. शिवकुमार अग्रवाल, मैसर्स सिंगल ब्रदर्स कोचिन-2 (1) 88-89 (2) 27,53,700 (3) 27,53,700 (4) 31,707 (5) 31,707।

71. सुशीला जोशी, पोण्णुर ओटमोबैल, बानरजी रोड, एरणाकुलम, (1) 84-85 (2) 1,24,600 (3) 12,12,600 (4) 19,541 (5) 17,488।
72. आर. श्रीलेखा सोहन, सेलूर कोरपोरेशन, एम.जी. रोड, एरणाकुलम (1) 84-85 (2) 10,39,300 (3) 15,23,000 (4) 28,582 (5) 14,931।
73. सी. पी. वीमली, कोण्डाक्टर, एडवण, (1) 88-89 (2) 10,68,100 (3) 10,68,100 (4) 4,874 (5) 4,874।
74. सी. जी. डी. तरुन, तरुन हौस, कुरीगुपल्ली रोड, एरणाकुलम (1) 84-85 (2) 10,32,800 (3) 10,32,800 (4) 14,735 (5) 14,735।
75. एम. उष्णीकुण्ठन मेलेन, चाक्को टवेस, एरणाकुलम, (1) 84-85 (2) 9,00,780 (3) 10,41,800 (4) 15,003 (5) 15,003।
76. -वही- (1) 85-86 (2) 14,01,730 (3) 15,27,600 (4) 30,128 (5) 30,128।
77. -वही- (1) 86-87 (2) 11,72,000 (3) 12,68,300 (4) 6,641 (5) 6,641।
78. -वही- (1) 87-88 (2) 12,86,300 (3) 14,34,200 (4) 8,092 (5) 6,559।
79. -वही- (1) 88-89 (2) 12,50,000 (3) 12,43,900 (4) 6,900 (5) 6,239।
80. वरगीसजेक्य, चाक्को टवेस, पुन्लेपडी, एरणाकुलम, (1) 84-85 (2) 7,59,600 (3) 10,39,860 (4) 14,945 (5) 8,777।
81. -वही- (1) 85-86 (2) 8,78,300 (3) 10,71,930 (4) 15,908 (5) 1,094।
82. -वही- (1) 86-87 (2) 9,30,000 (3) 12,45,330 (4) 6,203 (5) 3,203।

[प्रधिसूचना सं. सी. नं. 212/89-90 आर.]
लक्ष्मी नारायण, आयकर अधिकृत

COMMISSION OF INCOME-TAX, COCHIN

(Income-tax Department)

Cochin, the 29th September, 1989

S.O. 3028.—Whereas the Central Government is of the opinion that it is necessary and expedient in the public interest to publish under section 42-A of the Wealth Tax Act, 1957, the names and their particulars relating to the following individuals (indicated by 'I') who have been assessed under the Wealth Tax Act, 1957 (27 of 1957) on net wealth exceeding Rs. 10 lakhs, in the charge of the Commissioner of Wealth tax, Cochin during the financial year 1988-89, such particulars like (i) Assessment year (ii) Wealth returned (iii) Wealth assessed (iv) Tax payable (v) Tax Paid (all amounts in rupees) are hereby published.

Individuals (I)

1. Abu, Kombathyal, Quatar (i) 84-85 (ii) 17,41,800 (iii) 17,41,800 (iv) 40,532 (v) 39,634.
2. Abu, Kombathyal, Quatar (i) 85-86 (ii) 20,74,800 (iii) 20,74,800 (iv) 57,500 (v) 60,347.

3. Mr. Annie John, J. A. Hospital, Chalakudy (i) 86-87 (ii) 10,09,700 (iii) 10,09,700 (iv) 3,830 (v) 3,830.

4. Abu, C Chithayei House, Perumpadappu (i) 87-88 (ii) 9,51,600 (iii) 11,47,400 (iv) 7,724 (v) 7,724.

5. Abraham M.K. Madaickal House, Vengola, Perumthavoor (i) 88-89 (ii) 14,07,750 (iii) 15,31,200 (iv) 9,969 (v) 9,969.

6. P.P. Alavi Haji, Palayath Parambil House, Irin-gavoor, Tirur (i) 84-85 (ii) 10,30,678 (iii) 10,34,200 (iv) 14,773 (v) 14,672.

7. Mrs. Anna Kurien, Forbes Bungalow, Cochin-1 (i) 86-87 (ii) 7,67,300 (iii) 11,68,400 (iv) 5,433 (v) 5,433.

8. Mrs. Annu Kurien, Forbes Bungalow, Cochin-1 (i) 87-88 (ii) 11,01,000 (iii) 15,74,700 (iv) 9,496 (v) 9,496.

9. Mrs. Annu Kurien, Forbes Bungalow, Cochin-1 (i) 88-89 (ii) 12,31,700 (iii) 15,41,400 (iv) 10,081 (v) 10,081.

10. Aju Jacob, Vijay Vihar, Cochin-16 (i) 86-87 (ii) 10,08,100 (iii) 10,08,100 (iv) 3,831 (v) 3,831.

- (11) Aju Jacob, Ajay Vihar, Cochin-16 (i) 87-88 (ii) 18,47,000 (iii) 18,47,000 (iv) 12,221 (v) 12,221.

- (12) Aju Jacob, Ajay Vihar, Cochin-16 (i) 88-89 (ii) 23,77,600 (iii) 23,77,600 (iv) 23,432 (v) 23,432.

- (13) Aleyamma Jacob, Embassy Enterprises, Banerji Road, Ernakulam (i) 86-87 (ii) 12,69,400 (iii) 12,69,400 (iv) 6,444 (v) 6,444.

- (14) Aleyamma Jacob, Embassy Enterprises, Banerji Road, Ernakulam (i) 87-88 (ii) 15,95,500 (iii) 15,95,500 (iv) 9,705 (v) 9,705.

- (15) Aleyamma Jacob, Embassy Enterprises, Banerji Road, Ernakulam (i) 88-89 (ii) 15,28,000 (iii) 15,28,000 (iv) 9,933 (v) 9,933.

- (16) K. P. Abdul Kareem, T.D. Road, Ernakulam. (i) 84-85 (ii) 9,90,847 (iii) 10,77,500 (iv) 16,076 (v) 13,565.

- (17) Dr. M.A. Abdul Jabbar, C/o R.G.N. Price & Co., CAs Ernakulam (i) 82-83 (ii) 51,00,856 (iii) 56,10,200 (iv) 2,34,262 (v) 2,03,852.

- (18) Dr. M.A. Abdul Jabbar, C/o R.G.N. Price & Co., CAs Ernakulam (i) 83-84 (ii) 57,26,700 (iii) 63,33,400 (iv) 2,70,420 (v) 2,28,652.

- (19) C.U. Baby, Fair Price, Jews Street, Ernakulam (i) 84-85 (ii) 7,54,811 (iii) 10,15,203 (iv) 14,206 (v) 9,218.

- (20) C.U. Baby, Fair Price, Jews Street, Ernakulam. (i) 85-86 (ii) 7,90,678 (iii) 10,84,224 (iv) 10,076.

- (21) Bappu K. S/o Mohammed Airoor, Chengarakulam (i) 86-87 (ii) 10,79,400 (iii) 10,74,900 (iv) 4,454 (v) 4,454.

- (22) Bappu K., S/o Mohammed Airoor, Chengarakulam (i) 87-88 (ii) 11,53,200 (iii) 11,58,500 (iv) 5,252 (v) 5,252.

(23) Bachibhai Shamji, International Spices, Cochin-2 (i) 88-89 (ii) 13,45,600 (iii) 13,45,600 (iv) 7,926 (v) 7,926.

24. Baboo George, Geo Tech Construction Corporation, Panampilly Nagar, Cochin-16 (i) 85-86 (ii) 11,61,800 (iii) 13,68,900 (iv) 24,816 (v) 18,052.

25. Baboo George, Geo Tech Construction Corporation, Panampilly Nagar, Cochin-16 (i) 86-87 (ii) 8,73,800 (iii) 12,53,500 (iv) 6,234 (v) 3,103.

26. Mrs. Cathrine Palu, Chackola Bhavan, Mission Qdarters, Trichur (i) 84-85 (ii) 15,18,500 (iii) 15,18,500 (iv) 29,645 (v) 29,645.

27. Dileep Kumar K. Metha, C/o CKN Metha and Co., Cochin-2 (i) 88-89 (ii) 10,17,800 (iii) 10,57,700 (iv) 4,760 (v) 4,418.

28. Gladys S. Koder, 32, Church Road, Cochin-1 (i) 84-85 (ii) 29,67,400 (iii) 29,67,400 (iv) 86,230 (v) 86,230.

29. Gladys S. Koder, 32, Church Road, Cochin-1 (i) 85-86 (ii) 28,39,800 (iii) 28,29,800 (iv) 80,280 (v) 80,280.

30. Gladys S. Koder, 32, Church Road, Cochin-1 (i) 86-87 (ii) 28,06,600 (iii) 28,06,600 (iv) 25,880 (v) 25,880.

31. M. J. George, Jos Electricals, M. G. Road, Ernakulam (i) 84-85 (ii) 8,31,400 (iii) 11,37,400 (iv) 17,352 (v) 10,380.

32. Hasan P. M. Chowghat (i) 84-85 (ii) 11,18,200 (iii) 11,18,200 (iv) 17,296 (v) 17,281.

33. Hasar P. M. Chowghat (i) 85-86 (ii) 12,01,600 (iii) 12,01,600 (iv) 19,798 (v) 19,779.

34. Hasan K. K. Riyadh Manzil, Alwaye (i) 85-86 (ii) 15,03,200 (iii) 15,03,200 (iv) 28,910 (v) 28,910.

32. Hasan P.M. Chowghat (i) 84-85 (ii) 11,18,200 (iii) 22,92,600 (iv) 19,602 (v) 19,602.

36. P. K. Hamsa Haji, By P. A. Holder Kunhibava Haji, Tirur (i) 83-84 (ii) 10,35,400 (iii) 16,06,500 (iv) 34,063 (v) 871.

37. P. K. Hamsa Haji, By P. A. Holder Kunhibava Haji, Tirur (i) 84-85 (ii) 21,16,100 (iii) 31,29,600 (iv) 1,10,230 (v) 1,360.

38. Ibrahimkutty K. C/o Mohammed Aijiar, Ponnani (i) 86-87 (ii) 11,35,900 (iii) 11-93,000 (iv) 5,680 (v) 5,109.

39. Ibrahimkutty K., C/o. Mohammed Aijiar, Ponnani (i) 87-88 (ii) 11-93,000 (iii) 11-93,000 (iv) 5,680 (v) 5,680.

40. Ibrahimkutty K. C/o Mohammed Aijiar, Ponnani (i) 88-89 (ii) 11,66,710 (iii) 11-67,300 (iv) 5,422 (v) 5,959

41. Jose Antony Thuluvath, Paraparambu, Kaloore Road, Cochin (i) 84-85 (ii) 45,05,600 (iii) 45,05,600 (iv) 1,79,033 (v) 1,79,033.

42. John Mathew K. Thodupuzha (i) 84-85 (ii) 16,68,800 (iii) 16,28,300 (iv) 37,475 (v) 35,451.

43. John Mathew K., Thodu'pubha (i) 85-86 (ii) 22,00,900 (iii) 21,26,700 (iv) 63,795 (v) 60,086.

44. A. U. Jameela, 39/795, Arangath Cross Road, Pullepady, Ernakulam (i) 85-86 (ii) 10,60,400 (iii) 10,79,900 (iv) 15,661 (v) 15,560.

45. Krishnakumar K. Krishna and Co., Calvetty, Cochin (i) 88-89 (ii) 15,70,000 (iii) 15,48,900 (iv) 10,395 (v) 10,052.

46. Kirormal Agarwal, M/s. Singal Brothers, Cochin-2 (i) 88-89 (ii) 26,69,000 (iii) 26,69,000 (iv) 29,843 (v) 29,843.

47. G. Kamala Bai, XII/548, Manthara Road, Cochin-2 (i) 87-88 (ii) 9,62,770 (iii) 10,50,330 (iv) 4,252 (v) 4,252.

48. P. P. Khadar Haji, Ahamed Manzil, 27/1038, Samadli Road, Cochin-16 (i) 85-86 (ii) 32,12,000 (iii) 34,81,000 (iv) 1,15,918 (v) 1,08,905.

49. A. K. Kabeer, Colton House, Bank Road, Cochin-17 (i) 87-88 (ii) 10,90,400 (iii) 10,90,400 (iv) 4,608 (v) ..

50. Lucy Kochuvareed, Thattil House, Latin Church Road, Trichur (i) 79-80 (ii) 12,62,100 (iii) 12,62,100 (iv) 20,300 (v) 20,300.

51. Lucy Kochuvareed, Thattil House, Latin Church Road, Trichur (i) 82-83 (ii) 12,01,900 (iii) 12,01,900 (iv) 19,807 (v) 19,807.

52. Lucy Kochuvareed, Thattil House, Latin Church Road, Trichur (i) 81-82 (ii) 15,10,700 (iii) 15,10,700 (iv) 29,286 (v) 29,286.

53. Lucy Kochuvareed, Thattil House, Latin Church Road, Trichur (i) 82-83 (ii) 17,00,500 (iii) 17,00,500 (iv) 38,776 (v) 38,776.

54. Lucy Kochuvareed, Thattil House, Latin Church Road, Trichur (i) 83-84 (ii) 16,12,100 (iii) 16,12,100 (iv) 34,329 (v) 34,329.

55. Lucy Kochuvareed, Thattil House, Latin Church Road, Trichur (i) 84-85 (ii) 17,30,200 (iii) 17,30,200 (iv) 40,257 (v) 40,257.

56. E. V. Moosa Haji, Blue Star Tourist Home, Badagara (i) 84-85 (ii) 10,06,500 (iii) 10,06,500 (iv) 13,943 (v) 13,670.

57. Mohan Thomas, Forbes Bungalow, Cochin-1 (i) 86-87 (ii) 13,86,300 (iii) 15,44,400 (iv) 9,144 (v) 9,144.

58. Mohan Thomas Forbes Bungalow, Cochin-1 (i) 87-88 (ii) 14,37,300 (iii) 17,25,800 (iv) 11,008 (v) 11,008.

59. Mohan Thomas, Forbes Bungalow, Cochin-1 (i) 88-89 (ii) 6,42,500 (iii) 17,51,200 (iv) 12,388 (v) 12,388.

60. Moly Isac, M/s. Paul P. Bapen and Co., Ernakulam (i) 88-89 (ii) 9,00,070 (iii) 11,46,100 (iv) 5,732 (v) 7,732.

61. Mohammed Alias Babu Sait, 39/517, Krishnaswamy Cross Road, Cochin-35 (i) 84-85 (ii) 10,96,200 (iii) 10,96,200 (iv) 16,634 (v) 16,634.

62. Mary John, Gosria Hardwares, Cloth Bazar Road, Ernakulam (i) 87-88 (ii) 9,13,200 (iii) 13-37-600 (iv) 7,126 (v) 3,316.

63. Nirmalaben Takkubi, Krishna and Co., Galvetty, Cochin (i) 88-89 (ii) 22,24,000 (iii) 21,58,600 (iv) 19,651 (v) 18,213.

64. Mrs. R. A. Palat, Palat Estate, West Fort Road, Palghat (i) 86-87 (ii) 8,66,700 (iii) 11-11-400 (iv) 4,864 (v) 4,864.

65. Mrs. R. A. Palat, Palat Estate, West Fort Road, Palghat (i) 87-88 (ii) 9,62,100 (iii) 12,01,400 (iv) 5,764 (v) 5,764.

66. Mrs. R. A. Palat, Palat Estate, West Fort Road, Palghat (i) 88-89 (ii) 11,63,800 (iii) 12,67,000 (iv) 7,062 (v) 7,062.

61. P. P. N. Pillai, C. U. Chacko and Sons, Ravipuram, Cochin-16 (i) 87-88 (ii) 12,57,400 (iii) 13,24,200 (iv) 6,991 (v) 6,024.

68. S. V. Pai, M/s. Paico, M. G. Road, Ernakulam (i) 84-85 (ii) 2,000 (iii) 13,00,600 (iv) 22,104 (v) ..

69. R. M. Ramaswamy, General Manager, Western India Cottons, Pappinisserri (i) 88-89 (ii) 12,18,000 (iii) 12,18,000 (iv) 6,523 (v) 6,523.

70. Sivakumar Agarwal, M/s. Singal Brothers, Cochin-2 (i) 88-89 (ii) 27,53,700 (iii) 27,53,700 (iv) 31,707 (v) 31,707.

71. Suseela George, Popular Automobiles, Banerji Road, Ernakulam (i) 84-85 (ii) 11,24,600 (iii) 12,12,600 (iv) 19,541 (v) 17,488.

72. R. Sreelekha Mohan, Chelur Corporation, M. G. Road, Ernakulam (i) 84-85 (ii) 10,39,300 (iii) 15,23,000 (iv) 28,582 (v) 14,931.

73. V. P. Thirumathy, Contractor, Edavanna (i) 88-89 (ii) 10,68,100 (iii) 10,68,100 (iv) 4,874 (v) 4,874.

74. C.G.D. Tharakan, Tharakan House, Kurisupally Road, Ernakulam (i) 84-85 (ii) 10,32,800 (iii) 10,32,800 (iv) 14,735 (v) 14,735.

75. M. Unnikrishna Menon, Chakiath Brothers, Ernakulam, (i) 84-85 (ii) 9,00,780 (iii) 10,41,800 (iv) 15,003 (v) 15,003.

76. M. Unnikrishna Menon, Chakiath Brothers, Ernakulam (i) 85-86 (ii) 14,01,730 (iii) 15,27,600 (iv) 30,128 (v) 30,128.

77. M. Unnikrishna Menon, Chakiath Brothers, Ernakulam (i) 86-87 (ii) 11,72,000 (iii) 12,68,800 (iv) 6,641 (v) 6,641.

78. M. Unnikrishna Menon, Chakiath Brothers, Ernakulam (i) 87-88 (ii) 12,86,300 (iii) 14,34,200 (iv) 8,092 (v) 6,559.

79. M. Unnikrishna Menon, Chakiath Brothers, Ernakulam (i) 88-89 (ii) 12,50,000 (iii) 12,43,900 (iv) 6,990 (v) 6,239.

80. Vargis Jacob, Chacko Towers, Pulleppady, Ernakulam (i) 84-85 (ii) 7,59,600 (iii) 10,39,860 (iv) 14,945 (v) 8,777.

81. Vargis Jacob, Chacko Towers, Pulleppady, Ernakulam (i) 85-86 (ii) 8,78,300 (iii) 10,71,930 (iv) 15,908 (v) 11,094.

82. Vargis Jacob, Chacko Towers, Pulleppady, Ernakulam (i) 86-87 (ii) 9,30,000 (iii) 12,45,330 (iv) 6,203 (v) 3,383.

[Notification C. No. 212/89-90/R]

LAKSHMINARAYANA, Commissioner of Income-tax.

लाघ एच नागरिक पति मंत्रालय

(नागरिक पति विभाग)

नई दिल्ली, 15 नवम्बर, 1989

का.आ. 3029.—अधिनियम संविदा (विनियमन) अधिनियम, 1952 (1952 का 74) की धारा 3 की उपधारा (1) द्वारा प्रस्तुत शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार इसके द्वारा नागरिक पति विभाग में निदेशक कृ. सी. सोहानी को श्रीमती विमला कुमार गदग्य की 3 नवम्बर 1989 (अपराह्न) से 27 नवम्बर, 1989 (पूर्वाह्न) की छुट्टी की अवधि के दौरान उनके स्थान पर बायदा बाजार आयोग, बम्बई के सदस्य के रूप में नियुक्त करती है। वे अपने मौजूदा कार्य को भी देखती रहेंगी।

[मिनिस्टर स. ए - 17011/4/87-प्रशा. II]

ओ. पी. खेतपाल अवसर सचिव

MINISTRY OF FOOD AND SUPPLIES

(Department of Civil Supplies)

New Delhi, the 15th November, 1989

S.O. 3029.—In exercise of the powers conferred by Sub-section (2) of Section 3 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby appoints Km. C. Sohoni, Director, in the Department of Civil Supplies, as a Member of the Forward Markets Commission, Bombay, vice Smt. Vimala Kumar, Member during her leave period from 3rd November, 1989 (A.N.) to 27th November, 1989 (F.N.) in addition to her present duties.

[F. No. A-17011/4/87-Estt. II]

O. P. KHETRAPAL, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 23 अक्टूबर, 1989

का.आ. 3030.—दंत चिकित्सक अधिनियम 1948 (1948 का 16) की धारा 3 के खंड (घ) के अनुसरण में निम्नलिखित व्यक्तियों को उनके नामों के आगे उपरि उल्लिखित विश्वविद्यालयों द्वारा प्रत्येक के नाम के सामने वर्णनीय गई तारीखों से भारतीय दंत चिकित्सा परिषद् के सदस्यों के रूप में निर्वाचित किया गया है, अर्थात्:—

क्र. सं.	नाम और पता	निर्वाचित करने वाले प्राधिकरण का नाम	निर्वाचित की तारीख
1.	डा. प्रार. एम. हेब्बाली नं. 20, 28 वां फ़्लाट 4 ब्लॉक, जय नगर, बंगलूर - 560011	बंगलूर विश्व-विद्यालय	28 मार्च 89
2.	डा. अब्दुलसलाम मुखोपाध्याय 15/1 निर्मल चन्द्र स्ट्रीट, कलकत्ता	कलकत्ता विश्व-विद्यालय	21 दिसम्बर, 88

अतः अब उक्त अधिनियम की धारा 3 के खंड (घ) के अनुसरण में केन्द्रीय सरकार भारत सरकार के स्वास्थ्य और परिवार कल्याण मंत्रालय की तारीख 24 जनवरी, 1984 की अधिभूचना संख्या का. आ. 430 में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिभूचना में "धारा 3 के खंड (घ) के अधीन निर्वाचित, शीर्षक के अधीन (क) क्रम संख्या 7 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियाँ रखी जाएंगी, अर्थात्:—

7. "डा. प्रार. एम. हेब्बाली नं. 20, 28 वां फ़्लाट 4 ब्लॉक, जय नगर, बंगलूर - 560011	निर्वाचित बंगलूर विश्वविद्यालय	28-3-89"
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(ख) क्रम संख्या 14 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियाँ रखी जाएंगी, अर्थात्:—

"14. डा. अब्दुलसलाम मुखोपाध्याय 15/1, निर्मल चन्द्र स्ट्रीट कलकत्ता	निर्वाचित कलकत्ता विश्वविद्यालय	21-12-88"
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[सं. बी. 12013/1/89-पी एम एस]

MINISTRY OF HEALTH AND FAMILY WELFARE

(Deptt. of Health)

New Delhi, the 23rd October, 1989

S.O.3030.—Whereas in pursuance of clause (d) of section 3 of the Dentists Act, 1948 (16 of 1948), following persons have been elected by the Universities indicated against their names to be the members of the Dental Council of India with effect from the dates shown against each, namely:—

Sl. Name and address No.	Authority electing	Date of election
1	2	3
1. Dr. R.M. Hebballi, No. 20, 28th Cross, IV, Block, Jayanagar Bangalore—560011.	Bangalore University	28th March, 1989
2. Dr. Abirlal Mukhopadhyay, 15/1, Nirmal Chandra Street, Calcutta.	Calcutta University	21st December, 1988

Now, therefore, in pursuance of clause (d) of section 3 of the said Act, the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Health and Family Welfare, No. S.O. 430 dated the 24th January, 1984, namely :—

In the said notification, under the heading “Elected under clause (d) of section 3”,

(a) for serial number 7 and the entries relating thereto, the following serial number and entries shall be substituted namely :—

“7. Dr. R.M. Hebballi, Elected Bangalore University 28-3-1989”.
No. 20, 28th Cross.
IV Block, Jayanagar,
Bangalore—560011.

(b) for serial number 14, and the entries relating thereto, the following serial number and entries shall be substituted, namely :—

“14. Dr. Abirlal Mukhopadhyaya, Elected Calcutta University 21-12-1988”.
15/1, Nirmal Chandra Street,
Calcutta.

[No. V. 12013 1/89-PMS]

नई दिल्ली, 24 अक्टूबर, 1989

का. आ. 3031—केन्द्रीय सरकार भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात्, उक्त अधिनियम की पहली अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में “महर्षि दयानन्द विश्वविद्यालय” शीर्षक के नीचे निम्नलिखित प्रविष्टियाँ अन्तर्भावित की जाएंगी, अर्थात् :—

“चिकित्सीय चिकित्सा—चिकित्सा विज्ञान—विज्ञान में डिप्लोमा डॉ. एम.आर.डी.
[संख्या पी. 11015/31/87—एम ई (पी.)]

आर. श्रीनिवासन, अवर सचिव

New Delhi, the 24th October, 1989

S.O. 3031.—In exercise of the powers conferred by Sub-section (2) of Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Schedule, under the heading Maharishi Dayanand University, the following entries shall be inserted, at the end, namely :—

“Diploma in Medical Radio—Diagnosis DMRM”.

[No. V-11015/31/87-ME (P)]

R. SRINIVASAN, Under Secy.

पेट्रोलेयम और प्राकृतिक गैस संशोधन

नई दिल्ली, 20 नवम्बर, 1989

का.आ. 3032—अतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोन्जीवीयम से

रीलायन्स उद्योग तक पेट्रोलेयम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी जगहों को बिछाने के प्रयोजन के लिए एतद्पाषाण अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलेयम और खनिज पाइपलाइन (भूमि उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 का उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने इसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है।

वर्षों कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए प्राक्षेप संश्लेष प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और वेखदान प्रभाग, मकरपुरा रोड, बडौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर रहेगा।

और ऐसा प्राक्षेप करने वाला हर व्यक्ति विनिर्दिष्टः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायों का मार्फत।

अनुसूची

रामोन् जी.सी.एम. से रिलायन्स उद्योग तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात जिला : अहमदाबाद तालुका : वसक्रोई

गांव ब्लॉक नं. हेक्टेयर आर. सेंटीयर

गांव	ब्लॉक नं.	हेक्टेयर	आर.	सेंटीयर
मीरौ पुर	11	0	04	48
	10	0	00	60
	15	0	00	60

1	2	3	4	5
	16	0	10	80
	17	0	17	70
	34	0	06	00
	35	0	07	20
	36	0	06	60
	37	0	07	20
	38	0	01	20
	41	0	06	60
	48	0	27	60
	47	0	16	60
	51	0	03	90

[सं. मो.-11027/138/89-ओ एन जा-डी III]

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 20th November, 1989

S.O. 3032.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road; Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Ramol GCS to Reliance Industries

State : Gujarat District : Ahmedabad
Taluka : Dascroi

Village	Block No.	Hec-tare	Are	Centiare
Bibipur	11	0	04	48
	10	0	00	60
	15	0	00	60
	16	0	10	80
	17	0	17	70
	34	0	06	00
	35	0	07	20
	36	0	06	60
	37	0	07	20
	38	0	01	20
	41	0	06	60
	48	0	27	60
	47	0	16	60
	51	0	03	90

[No. O-11027/138/89-ONG-D.III]

का.भा. 3033.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जीसीएस से रिलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी साझनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रवर्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बसते कि उक्त भूमि में हितवश कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस प्रायोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड बडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति त्रिनिटिष्टतः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की सार्फत।

अनुसूची

रामोल जी.सी.एस. से रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए
राज्य : गुजरात जिला : अहमदाबाद तालुका : दसक्रोई

गांव	ब्लॉक नं.	हेक्टेयर	आरे.	सेन्टीयर
गतराड	173	0	01	50
	174	0	27	15
	175	0	15	00

[सं. मो.-11027/145/89-आ.एन.जी.डी.-III]

S.O. 3033.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road; Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Ramol GCS to Reliance Industries
State : Gujarat District : Ahmedabad
Taluka : Dascroi

Village	Block No.	Hec- tare	Are Centi- are
Gatrad	173	0	01 50
	174	0	27 15
	175	0	15 00

[No. O—11027/145/89-ONG—D.III]

का.प्र. 3034—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जीसीएस से रीलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तैयार तथा प्रकृतिक गैस अयोग द्वारा बिछाई जानी चाहिए।

और शतः यह प्रतीत होता है कि ऐसी ज़मीनों को विद्युत के प्रयोजन के लिए एकदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिप्राप्त अधिकार करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का धर्जन) अधिनियम, 1962 (1962 का 50) का धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार धर्जित करने का शक्ति आदेश पत्र द्वारा घोषित किया है।

अर्थात् कि उक्त भूमि में हिसाब कोई व्यक्ति, उस भूमि के लिये पाइपलाइन बिछाने के लिए आक्षेप रखने प्राधिकारी, तैल तथा प्रकृतिक गैस अयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, यडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी बताना करेगा कि क्या वह यह चाहता है कि उसकी भूमि कोई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की संपत्ति।

अनुसूची

रामोल जी.सी.एस. से रीलायन्स उद्योग तक पाइपलाइन बिछाने के लिए
राज्य : गुजरात जिला : अहमदाबाद तालुका : दसक्रोई

गांव	ब्लॉक नं.	हेक्टेयर	भार.	सेन्टीयर
1	2	3	4	5
मुयालडी	516	0	24	00
	517	0	09	60
	526	0	36	00
	525	0	10	50
	537	0	09	60
	538	0	04	80
	539	0	00	30
	540	0	06	00
	541	0	04	50
	573	0	19	20

1	2	3	4	5
	556	0	12	00
	572	0	01	80
	557	0	09	60
	565	0	12	00
	कादंडेक	0	03	00
	713	0	34	80

[सं. ओ-11027/147/89-ओ एन जी- डी. III]

S.O. 3034.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodra-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Ramol GCS to Reliance Industries
State : Gujarat District : Ahmedabad
Taluka : Dascroi

Village	Survey No.	Hec- tare	Are	Centi- are
1	2	3	4	5
Bhuvaldi	516	0	24	00
	517	0	09	60
	526	0	36	00
	525	0	10	50
	537	0	09	60
	538	0	04	80
	539	0	00	30
	540	0	06	00
	541	0	04	50
	573	0	19	20
	556	0	12	00

1	2	3	4	5
	572	0	01	80
	557	0	09	60
	565	0	12	00
	Cart Track	0	03	00
	713	0	34	80

[No. O-11027/147/89-ONG-D.III]

यह भा. 30.15 :- यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी. सी. एस. से रिलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पारवनाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसे लाभों को बिछाने के प्रयोजन के लिए पारवनाइन अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पारवनाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) का धारा 3 की उपधारा द्वारा प्रदान की गयी शक्तों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार प्रजित करने का अपना आग्रह पत्र द्वारा पोषित किया है।

अतः कि उक्त भूमि में बिछाई कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप भ्रमण अधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और रक्षण प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति निम्नलिखित यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या निर्णय विधि व्यवस्था की माफ़त।

अनुसूची

रामोल जी.सी.एस. से रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : अहमदाबाद तालुका : सहर

गांव	सर्वे नं.	हेक्टेयर	आर.	सेन्टियर
नरोडा	670	0	00	30
	669	0	16	80
	668	0	08	40
	672	0	02	70
	667	0	07	50
	663	0	11	85
	664	0	16	80
	661	0	13	50
	660	0	12	00
	651	0	09	60
	650/2	0	00	80
	650/1	0	08	80
	627	0	13	50
	626	0	11	70
	625	0	08	40
	529/3	0	13	20
	529/1	0	11	70

[नं. ओ.-11027/148/89-ओ.एन.जी. III]

S.O. 3035.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user thereon;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road; Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Ramol GCS to Reliance Industries

State : Gujarat District : Ahmedabad

Taluka : City

Village	Survey No.	Hec-tare	Are	Centiare
Naroda	670	0	00	30
	669	0	16	80
	668	0	08	40
	672	0	02	70
	667	0	07	50
	663	0	11	85
	664	0	16	80
	661	0	13	50
	660	0	12	00
	651	0	09	60
	650/2	0	00	80
	650/1	0	08	80
	627	0	13	50
	626	0	11	70
	625	0	08	40
	529/3	0	13	20
	529/1	0	11	70

[No. O-11027/146/89-ONG-D.III]

का. प्रा. 3036—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी सी एस से रीलायन्स उद्योग के पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पाठ्य अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 को उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस प्रायोग निम्न और वैखभाल प्रभाग, मकरपुरा रोड, बडीदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से ही या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी. सी. एस. से रीलायन्स उद्योग तक पाइप लाइन बिछाने के लिए

राज्य -- गुजरात जिला -- महमदाबाद तालुका : दस लोई

गांव	सर्वे नं.	हे.	अरे.	सें.
मेहमदपुर	63	0	19	50
	64	0	28	40
	72	0	22	50
	71	0	09	00
	70	0	02	30
	69	0	14	40
	82	0	20	40
	85	0	06	00
	89	0	10	80
	87	0	08	40
	88	0	10	80
	94	0	16	80
	106	0	15	60
	105	0	00	30
	107	0	01	80
	109	0	16	80
	110	0	18	50
	113	0	12	00
	114	0	14	55
	86	0	00	25

[सं. ओ. 11027/148/89 ओ एन. जी. डी. III]

S.O. 3036.—Whereas it appears to the Central Government that it is necessary in the public interest

that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

Pipeline from Ramol GCS to Reliance Industries
State : Gujarat District : Ahmedabad
Taluka : Dascroi

Village	Survey No.	Hec- tare	Are	Cent- iare
Memadpur	63	0	19	50
	64	0	26	40
	72	0	22	50
	71	0	09	00
	70	0	02	30
	69	0	14	40
	82	0	20	40
	85	0	06	00
	89	0	10	80
	87	0	08	40
	88	0	10	80
	94	0	16	80
	106	0	15	60
	105	0	00	3 0
	107	0	01	80
	109	0	16	80
	110	0	10	50
	113	0	12	00
	114	0	14	55
	86	0	00	25

[No. O—11027/148/89-ONG-D.III]

का. प्रा. 3067—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी सी एस से रीलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रायोग द्वारा बिछाई जानी चाहिए।

श्रीर घत : यह प्रतीत होता है कि ऐसी लाहनों के विच्छेदन के प्रयोजन के लिए एतदुपाय ब्रह्म अनुसूची से वर्णित भूमि में उपयोग का अधि-कार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज वाहकत्व (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उनमें उपयोग का अधिकार अर्जित करने का आपत आशय एतद्द्वारा घोषित किया है।

बशर्त कि उक्त भूमि में हितवद् कोई व्यक्ति, उस भूमि के मीचे पादप लाईन बिछाने के लिए आक्षेप सहम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण ग्रीड देखभाव प्रभाग यकरोपुरा, रोड, बडीदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी मुनबार्द व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी. सी. एस. से रिलायन्स उद्योग तक पार्श्व लाइन बिछाने के लिए

गांव	सर्वे सं.	हे.	अ.रे	सं.
1	2	3	4	5
बरवास	542	0	1	50
	539	0	6	00
	538	0	6	00
	540	0	9	60
	536	0	3	60
	535	0	0	60
	529	0	6	00
	530	0	12	00
काटे टूक		0	1	50
	345	0	6	60
	346	0	14	40
	347	0	0	60
	348	0	8	55
	349	0	6	00
	340	0	6	00
	341	0	6	60
	339	0	0	60
	338	0	15	60
	334	0	6	75
	335	0	0	60
	336	0	15	60
	223	0	3	60
	327	0	1	50
	324	0	9	60
	326	0	9	60
	325	0	12	00
	311	0	16	80
	310	0	15	60
	273	0	18	00
	272	0	14	40
	271	0	16	80

[सं. प्रो. 11027/137/89-प्रो. एन. जो. III]

S.O. 3037.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Provide,] that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

Pipeline from Ramol G.C.S. to Reliance Industries

State : Gujarat Taluka : Dascroi

District : Ahmedabad

Village	Survey No.	Hec- tare	Are	Cent- tiare
1	2	3	4	5
Vastrap	542	0	1	50
	539	0	6	00
	538	0	6	00
	540	0	9	60
	536	0	3	60
	535	0	0	60
	529	0	6	00
	530	0	12	00
	Cart track	0	1	50
	345	0	6	60
	346	0	14	40
	347	0	0	60
	348	0	8	55
	349	0	6	00
	340	0	6	00
	341	0	6	60
	339	0	0	60
	338	0	15	60
	334	0	6	75
	335	0	0	60

1	2	3	4	5
	336	0	15	60
	323	0	3	60
	327	0	1	50
	324	0	9	60
	326	0	9	60
	325	0	12	00
	311	0	16	80
	310	0	15	60
	273	0	18	00
	272	0	14	40
	271	0	16	80

[No. O—11027/137/89-ONG-D.III]

का. प्रा. 3038.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी सी एस से रिफायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अतिसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवन् कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग मकरपुरा, रोड, बडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत है।

अतिसूची

रामोल जी. सी. एस. से रिफायन्स उद्योग तक पाइप लाइन बिछाने के लिए

राज्य	जिला	ग्रामवादा	तालुका	सर्कल
गांव	धारा नं.	हे.	आर	से.
मोरस नगर	44	0	04	80
	45	0	18	00
	47	0	05	40
	48	0	06	15
	कार्ट ट्रैक	0	04	10
	123	0	16	20
	122	0	00	60
	125	0	07	20
	126	0	09	60
	121	0	15	60
	120	0	01	20
	127	0	01	50
	119	0	19	20
	118	0	00	30

S.O. 3038.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto :

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE

PIPELINE FROM RAMOL GCS TO RELIANCE INDUSTRIES

State : Gujarat District : Amhedabad

Taluka : Dascroi

Village	Block No.	Hect-are	Are	Centiare
1	2	3	4	5
Geratnagar	44	0	04	80
	45	0	18	00
	47	0	05	40
	48	0	06	15
	Cart track	0	04	10
	123	0	16	20
	122	0	00	60
	125	0	07	20
	126	0	09	60
	121	0	15	60
	120	0	01	20
	127	0	01	50
	119	0	19	20
	118	0	00	30

[No. O.—11027/139/89—ONG-D-III]

का. प्रा. 3039— यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी सी एस से रिफायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाईनों को बिछाने के प्रयोजन के लिए एतदुपाय अतुल्य से वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवन्त कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप रखने प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बडौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी. सी. एम. से रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए।

राज्य—गुजरात जिला—अहमदाबाद तालुका—दस क्रोई

गांव	सर्वे नं.	हे.	आर.	सें.
रामोल	141/3	0	18	00
	140	0	00	30

[सं. ओ. 11027/142/89-ओ एन जी डी II]

S.O. 3039.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto :

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

SCHEDULE PIPELINE FROM RAMOL GCS TO RELIANCE INDUSTRIES

State : Gujarat District : Ahmedabad
Taluka : Descroi

Village	Survey No.	Hect- are	Are	Centi- tiare
1	2	3	4	5
Ramol	141/3	0	18	00
	140	0	00	30

[No. O-11027/142/89-ONG-D-III]

का. आ. 3040—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी. सी. एम. से रिलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाईनों को बिछाने के प्रयोजन के लिए एतदुपाय अतुल्य से वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवन्त कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप रखने प्राधिकारी, तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बडौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी. सी. एम. से रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए।

राज्य—गुजरात	जिला—अहमदाबाद	तालुका—दस क्रोई			
गांव	सर्वे नं.	हे.	आर.	सें.	
सिंगरवा	133/1	0	06	00	
	127	0	42	30	
	124/3	0	14	40	
	124/2	0	10	50	
	124/1	0	06	60	
	123	0	06	15	
	101/1	0	06	00	
	102	0	30	60	
	98	0	12	00	
	97	0	12	60	

[सं. ओ. 11027/144/89-ओ एन जी -डी-III]

S.O. 3040.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Sec. 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE PIPELINE FROM RAMOL GCS TO RELIANCE INDUSTRIES

State : Gujarat District : Ahmedabad
Taluka : Dascroi

Village	Survey No.	Hect-are	Are	Centiare
Singarva	1332/	0	06	00
	127	0	42	30
	124/3	0	14	40
	124/2	0	10	50
—	124/1	0	06	60
	123	0	06	15
	101/1	0	06	00
	102	0	30	60
	98	0	12	00
	97	0	12	60

[No. O-11027/144/89-ONG. D.-III]

का. आ. 3041.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी सी एस में रिलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइप लाइन तैय तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनड्रायड अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उक्त उपयोग का अधिकार अर्जित करने का आना आशय एनड्रायड घोषित किया है।

बजट कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, तेल

तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चिततः यह भी कथन करेगा कि क्या यह वह चाहता है कि उनकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी.सी. एस. में रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात	जिला : अहमदाबाद	तालुका : दसक्रोई
गांव	ब्लॉक नं.	हेक्टेयर और सेंटीयर
हथीज	635	0 01 50
	636	0 00 25
	637	0 14 40
	599	0 02 80
	600	0 12 00
	601	0 22 30
	598	0 00 75
	597	0 12 75
	596	0 00 75

[सं. ओ. —11027/141/89-ओ एन जी. डी.-III]

S.O. 3041.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquired that right of user in the land described in the schedule annexed hereto.

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be hear in person or by legal Practitioner.

SCHEDULE PIPELINE FROM RAMOL GCS TO RELIANCE INDUSTRIES

State : Gujarat Distt. : Ahmedabad
Taluka : Dascroi

Village	Block No.	Hect- are	Are	Centiare
1	2	3	4	5
Hathijan	635	0	01	50
	636	0	00	25
	637	0	14	40
	599	0	02	80
	600	0	12	00

1	2	3	4	5
Hathijan	601	0	27	30
	598	0	00	75
	597	0	12	75
	596	0	00	75

[No. O—11027/141/89-ONG-D-III]

का. आ. 3042.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी सी एस से रिलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय घोषित किया है।

वर्णित कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग निर्माण और रखरखाव प्रभाग, मकरपुरा रोड, दंडीदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह बहु चाहता है कि उसकी मुनबारी व्यक्ति गत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

रामोल जी सी एस से रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए

राज्य गुजरात	जिला अहमदाबाद	तालुका दसकोई		
गांव	प्लॉट नं.	हेक्टेयर	आर	सेन्टीयर
कान्भा	437	0	00	90
	438	0	24	00
	439	0	15	15
	441	0	00	60
	442	0	18	30
	444	0	10	50
	459	0	05	25
	460	0	06	00
	461	0	04	20
	463	0	13	50
	466	0	07	50

[म. प्रो. —11027/140/89—प्रो. एन. जी.—डी—III]

S.O. 3042.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramol GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

3332 GI/89—3

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road; Vadodara-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM RAMOL GCS TO RELIANCE INDUSTRIES

State : Gujarat Distt. : Ahmedabad
Taluka : Dascroi

Village	Survey No.	Hect- are	Are	Centi- are
1	2	3	4	5
Kanbha	437	0	00	90
	438	0	24	00
	439	0	15	15
	441	0	00	60
	442	0	18	30
	444	0	10	50
	459	0	05	25
	460	0	06	00
	461	0	04	20
	463	0	13	50
	466	0	07	50

[No. O—11027/140/89-ONG-D-III]

का. आ. 3043.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में रामोल जी. एस. एस. से रिलायन्स उद्योग तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग बिछाई द्वारा जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्णित कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग निर्माण और रखरखाव प्रभाग मकरपुरा रोड दंडीदा—9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह बहु चाहता है कि उसकी मुनबारी व्यक्तिगत रूप से हो या किसी विधि की मार्फत।

अनुसूची

रामोल जी सी एस से रिलायन्स उद्योग तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात	जिला : अहमदाबाद	तालुका : दसकोई			
गांव	प्लॉट नं.	हेक्टेयर	आर	सेन्टीयर	
(1)	(2)	(3)	(4)	(5)	(6)
कान्भा	133	0	19	50	
	134	0	32	30	
	123	0	13	50	

1	2	3	4	5
काठवाड़ा	122	0	19	50
	121	0	30	00
	219	0	25	50
	221	0	09	00
	223	0	09	00
	224	0	00	60
	228	0	01	50
	काट ट्रैक	0	01	20
	225	0	27	55
	227	0	21	05
	काट ट्रैक	0	01	50
	328	0	12	55
	327	0	24	05
	321	0	06	55
	324	0	32	25
	काट ट्रैक	0	52	45
	439	0	15	55
	436	0	12	05
	434	0	20	25
	काट ट्रैक	0	51	55
	465	0	27	05
	467	0	515	25
	468	0	51	05
	563	0	15	55
	काट ट्रैक	0	52	45
	569	0	54	55
	565	0	54	25
	567	0	15	55
	592	0	15	55
	595	0	05	15
	224	0	55	65
	593	0	35	0
	594	0	05	8
	589	0	54	5
	काट ट्रैक	0	01	5
	685	0	16	55
	715	01	29	00
	काट ट्रैक	01	50	00
	716	01	02	00
	718	0	06	00

[सं. प्रो-1027/143/89-प्रो एन सी डी-III]

के. विवेकानन्द डेस्क अधिकारी

S.O. 3043.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Ramal GCS to Reliance Industries in Gujarat State pipeline should be laid by the Oil & Natural Gas Commission.

And whereas it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto :—

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil & Natural Gas Commission, Construction & Maintenance Division, Makarpura Road; Vadodra-390 009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

SCHEDULE

PIPELINE FROM RAMOL GCS TO RELIANCE INDUSTRIES

State : Gujarat : Distt. Ahmedabad

Taluka : Discroi

Village	Block No.	Hect-are	Are	Centi-are
1	2	3	4	5
Kathawada	133	0	19	50
	134	0	32	30
	123	0	13	50
	122	0	19	50
	121	0	30	00
	219	0	25	50
	221	0	09	00
	223	0	09	00
	224	0	00	60
	228	0	01	50
	Cart track	0	01	20
	225	0	27	00
	227	0	21	00
	Cart track	0	01	50
	328	0	12	00
	327	0	24	00
	321	0	06	00
	324	0	32	25
	Cart track	0	02	40
	439	0	15	00
	436	0	12	00
	434	0	20	25
	Cart track	0	01	50
	465	0	27	00
	467	0	015	75
	468	0	06	00
	563	0	10	50
	Cart track	0	02	40
	569	0	09	00
	568	0	09	75
	567	0	10	50
	592	0	10	50
	595	0	00	60
	224	0	00	60
	593	0	30	00
	594	0	04	80
	589	0	09	00
	Cart track	001	01	50
	685	0	16	50
	715	01	29	00
	Cart track	0	50	00
	716	01	02	00
	718	0	06	00

[No. O-11027/143/89-ONG-D.III]

K. VIVEKANAND, Desk Officer

भूमि मंत्रालय

नई दिल्ली, 8 नवम्बर, 1989

का. 3044—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध से निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार का 6-11-89 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 8th November, 1989

S.O. 3044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi as shown in, the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 6-11-1989.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,

NEW DELHI

I. D. No. 10/89

In the matter of dispute between :

Shri Ram Kumar, Casual Watchman through The President, Bhartiya Khadya Nigam, Class IV Employees Union, F.S.D. Ghevra, Delhi.

Versus

District Manager, Bhartiya Khadya Nigam, Rohtak-124001.

APPEARANCES :

Shri Hira Lal—for the workman.

Shri P. C. Gupta—for the Management.
Assistant Manager.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/72/88-D.4 dated 3-1-89 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the management of Food Corporation of India in relation to the Distt. Manager, Food Corporation of India, Rohtak in denying regularisation of Sri Ram Kumar, Casual Watchman, is just and fair? If not, to what relief the workman concerned is entitled and from what date?”

1. The statement of claim in this case has been filed by Hira Lal Chairman All India Class IV Employees Union Food Corporation of India Gheva (hereinafter referred to as the Union). It has been stated that the workman was employed by the Management as casual watchman on 8-1-73 and his services were terminated on 20-11-73. The workman raised a dispute before the ALC (C) and the workman was taken back in service vide letter dated 28-6-77 and since then he has been continuously in the service of the Management as casual watchman and his presently posted at Bahadurgarh (Haryana). Persons junior to Shri Ram Kumar were regularised by the Management in the year 1978 but the workman was denied regularisation on the plea that he did not possess requisite/required qualification i.e. 8th class of recog-

nised board/authority, although Interview letter No. A-2547/78-79 dated 24-8-78 was issued to him and he was interviewed on 12th September, 78 alongwith other casual watchman. He has mentioned names of some of the junior casual watchmen whose services were regularised in the year 1979 and afterwards. S/Shri Kartar Singh and Surinder Singh who were appointed in June 78 were regularised on 4-10-79 and Prithvi Singh who also joined in June, 78 was regularised on 22-12-80. Out of them Prithvi Singh has in under Middle Class qualification. Some of the casual watchmen possessing lesser qualifications than the workman have also been accommodated. It has therefore been played that the workman may be treated as a regular employee since 12-9-78 the date of his first interview as persons interviewed on 12-9-78 had been given regular appointment from that date and all financial benefits being given to regular employee may be given to him and he may be also allotted seniority on the basis of his first appointment i.e. 8-1-73.

2. The Management in its written statement has been denied the facts relating to initial appointment of the workmen and his raising as industrial dispute and his subsequent appointment on 28-6-77. It has also not denied that the workman was called for interview for being appointed on a regular basis. It has been submitted that the workman was not found eligible as well as suitable for appointment as he did not possess the requisite qualifications. He did not make any representation for regularisation of the services and hence the question of relaxation of age and qualifications w.e.f. 12-9-78 did not arise. The workman applied for regularisation of his service vide his application dated 27-2-89 and the competent authority had exercised its discretion by regularising his service w.e.f. 10-4-89 after giving necessary relaxation in age and qualification. It was denied that person junior to the workman and having under middle class qualification was regularised by the FCI Rohtak. However, it was admitted that Prithvi Singh was regularised by FCI Hissar by giving relaxation in Educational qualification/age limit by competent authority.

3. Since admittedly the workman had already been regularised, the dispute further narrows down to the question as to from which date the workman should have been regularised. It is not denied that the workman has been in continuous employment since 28-6-77. It is also not denied that Prithvi Singh whose services have been regularised by giving relaxation in qualification/age limit is junior to the workman. It is also not denied that the said Prithvi Singh has been regularised w.e.f. 22-12-1980. The Management's plea that the workman did not make any representation earlier than 27-2-1989 is belied by the documents Ex. W-1 and W-2 which go to show that the workman had submitted his representation as early as 10-6-81. There appears to be no reason why the workman should not have been regularised when his juniors were regularised, without waiting for any representation from the workman. Taking into consideration the entire facts and circumstances, it will serve the ends of justice if the workman is regularised w.e.f. 22-12-1980 when his junior Prithvi Singh was regularised. It is ordered accordingly and it is further directed that the workman shall be paid all the consequential benefits as a result of his regularisation w.e.f. 22-12-80. The reference stands disposed of accordingly.

Dated : 26th October, 1989.

G. S. KALRA, Presiding Officer
[No. L-42012(72)/88-D.II (B)/JR (C. II)]

नई दिल्ली, 10 नवम्बर 1989

का. 3045—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व मैसर्स ईस्टर्न कोल फ़ील्ड्स लि. की बेजकीह कोलियरी के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध से निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आगमसोल के पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार का 8-11-29 को प्राप्त हुआ था।

New Delhi, the 10th November, 1989

S.O. 3045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the following award of the Central Government Industrial Tribunal as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bejdih Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 8-11-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 11/89

PARTIES :

Employers in relation to the management of Bejdih Colliery of M/s. Eastern Coalfields Ltd.

AND

Their Workmen.

PRESENT :

Shri N. K. Saha, Presiding Officer.

APPEARANCES :

For Employers—Sri B. N. Lala, Advocate.

For Workmen—Sri C. D. Dwevedi, Advocate.

INDUSTRY : Coal STATE : West Bengal

Dated, the 2nd November, 1989

AWARD

The Government of India' Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(56)/88-D.IV(B) dated the 17th January, 1989.

SCHEDULE

"Whether the action of the Management of Bejdih Colliery of M/s. E. C. Ltd., P.O. Sitarampur, Dist. Burdwan in not regularising S/Smt. Kanti Devi, Dulali Devi, Pantabia, Tara Devi, Lachminia, Munna Devi, Khandi Devi; Astami and Jasmoti, Wagon Loaders under the oral plea that the workers could not complete 240 days attendance in between 1973 and 1987, is justified? If not, to what relief the workmen concerned are entitled and from which date?"

2. During the pendency of the case, on 26-10-89 Sri C. D. Dwevedi, Advocate representing the union filed a petition purported to have been signed by the General Secretary of the Union submitting therein that the dispute has been amicably settled between the parties out of Court and the union is no longer interested in pursuing the matter. The union also pray for a 'No Dispute Award' in this case. Sri B. N. Lala, Advocate appearing for the management has no objection in this regard.

3. Upon consideration of the petition and the submission of the parties this Tribunal has no other alternative but to pass a 'No Dispute Award' and accordingly a 'No Dispute Award' is passed.

This is my Award.

N. K. SAHA, Presiding Officer
[No. L-24012(56)/88-D.IV (B)/IR (C. II)]

का. प्र. 3046—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार व भारत कोकिंग कोल लि. के प्रबन्धन में संवाद नियोजकों और उनके कर्मचारियों के बीच,

अनुषंग में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, सं. 1 धनबाद के पंचपट का प्रकाशन करती है, जो केन्द्रीय सरकार को 8-11-89 प्राप्त हुआ था।

S.O. 3046.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Chunch Victoria Area of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 8-11-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 6 of 1988

PARTIES :

Employers in relation to the management of General Manager, Chunch Victoria Area of Messrs. Bharat Coking Coal Limited.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers: Shri R. S. Murthy, Advocate.

For the Workmen: Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE: West Bengal.

INDUSTRY: Coal.

Dated, the 27th October, 1989

AWARD

By Order No. L-19012(19)/79-D.IV(B), dated, the 8th August, 1980, the Central Government in the Ministry of Labour, had, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to the Central Government Industrial Tribunal, Calcutta. Thereafter the dispute was transferred to Central Government Industrial Tribunal No. 3, Dhanbad, vide Ministry's Order No. L-19012(19)/79-D.IV(B) dated 18-11-1980 and later the same dispute has been transferred to this Tribunal vide Ministry of Labour's Order No. S-11025(7)/89-D.IV(B) dated 31-12-87/12-1-88. The schedule of the dispute runs as follows :

"Whether the management of Chunch-Victoria Area (Area No. XII) of Messrs. Bharat Coking Coal Limited, Post Office Barakar, District Burdwan was justified in refusing employment to Shri Jamuna Harijan, Miner in Begunia Colliery? If not, to what relief Shri Jamuna Harijan is entitled?"

2. The case of the sponsoring union, Bihar Colliery Kamgar Union as disclosed in the written statement, details apart, is as follows :

Jamuna Harijan, the concerned workman, had been working as permanent miner since long with unblemished record of service in Chanch-Victoria (Begunia Colliery). The management illegally and arbitrarily stopped the mining operation of the colliery in 1964 and retrenched all workmen of the colliery including the concerned workman also in 1964. Chanch-Victoria colliery is a coking coal mine and contains good quality of coking coal and so the Government of India had taken over this mine along with coking coal mines of

the country and thereafter nationalised this colliery along with other coking coal mines with effect from 1-5-1972. The management re-started the mining operation in 1974 and the retrenched employees of the colliery including the concerned workman approached the management for re-employment, but without any effect. Although many of the retrenched employees were re-employed, the concerned workman who was a permanent employee of the colliery and a member of provident fund did not get re-employment. Although he approached the management for re-employment, he was not given re-employment because he was/is active member of Bihar Colliery Kamgar Union. It is alleged that the refusal of the management in giving re-employment to the concerned workman is illegal, unjustified and against the principles of natural justice. In view of the adamant attitude of the management, the union saw no other alternative than to raise the present industrial dispute before the Asstt. Labour Commissioner (C) for amicable settlement, but due to the anti-labour attitude of the management the conciliation proceeding ended in a failure. The union has asserted that although several retrenched employees were re-employed upon re-opening of the colliery, the concerned workman was not given employment without any justification. The Government of India has been pleased to refer the present industrial dispute for adjudication by this Tribunal. In the circumstances, the union has prayed that the present reference be answered in favour of the concerned workman and an award be passed directing the management to re-employ the concerned workman in service with full back wages from the date of re-opening of the colliery i.e. from 1974.

3. The case of the management of Chanch-Victoria Area of M/s. B.C.C. Ltd., as disclosed in the written statement submitted by it, is as follows :

The present industrial dispute is not maintainable since the sponsoring union having been registered in Bihar has no authority to raise any industrial dispute in respect of a colliery in West Bengal and that this sponsoring union has or had no existence in Begunia Colliery. The instant reference is also not maintainable as there is no relationship of employer and employee between M/s. B.C.C. Ltd. on the one hand and the concerned workman on the other. Begunia Colliery a coking coal mine was located just by the eastern side of the river Barakar in West Bengal and was owned by K.C.T. Group. It was an old mine and the erstwhile owner having found that it was not possible to work the mine consistent with the safety requirement closed the same with effect from 1-7-1964. All the employees including both time rated and piece rated workers and miners were retrenched under section 25FFF of the Industrial Disputes Act. Only a few boiler Firemen were retained, but they were finally retrenched from the end of September, 1964. Both the shafts were full with ash and they were lying closed since then. Consequent upon the nationalisation of coking coal mine, Begunia colliery, although a closed mine, vested in M/s. B.C.C. Ltd., with effect from 1-5-72. Decision was taken in 1974 to utilise old two shafts of Begunia Colliery for making a new drive to develop a new area through these shafts. Accordingly two shafts were retained, renovated and repaired. Development of this new area through Begunia shafts became necessary as Chanch colliery located in Bihar on the other side of the river Barakar was facing closure upon coal being exhausted. Begunia Project is located in the heart of the town Barakar in the district of Burdwan (West Bengal) and at the instant of militant political party the local youth did not allow any person except themselves to join the Project. Their contention being that they must be provided first. At the intervention of the local unions and political leaders a number of technical hands who were locally available and said to have worked earlier besides some casual workers were taken in employment. In 1976 Chanch Colliery was fully closed which necessitated transfer of workers of that Colliery to other collieries of M/s. B.C.C. Ltd. in that area including a few of Begunia. They were, however, not allowed to join by the militant local youths. Ultimately at the intervention of law and order authority an agreement was reached whereby it was agreed that only 20 out of 36 transferred employed would be absorbed and when new jobs would be generated, the local un-employed youth would be provided. Since this was a case of closure the provision of Sec. 25FFF was at-

tracted and the provisions of Sec. 25H have no manner of application in the present case and the present employer is not bound to issue notice to the old workmen to join their duties. That apart there was no list of old employees of Begunia Colliery which as such was never re-opened. It is a simple case of two pits of Begunia Colliery to develop a new property. In the absence of any list of workmen who had been retrenched by the erstwhile owner, it was not possible to issue any notice to the concerned workman even if it is assumed that provision of Sec. 25H will be applicable in this case. In the circumstances, the management was perfectly justified in refusing employment to the concerned workman.

4. In rejoinder to the written statement of the management the sponsoring union has stated that it has rightly and legally espoused this dispute. The concerned workman was/is a member of Bihar Colliery Kamgar Union and he has authorised the union to espouse this dispute on his behalf. The Central Government has got legal authority to refer any industrial dispute at any time even if it is refused to refer any industrial dispute earlier. It has been asserted by the union that the concerned workman was retrenched by the management of erstwhile owner and thereafter mining operation was discontinued due to some reason best known to the employer and that the mine was re-opened after nationalisation in 1974. It is reiterated that the management was not justified in refusing employment to the concerned workman.

5. In rejoinder to the written statement of the sponsoring union, the management has stated that the workman and the union do even know that there is no colliery as Chanch-Victoria Colliery. The union has come into existence only recently and it has no idea as to why Begunia colliery stopped working in 1964. All the workmen employed in Begunia colliery were retrenched under Sec. 25FFF from July, 1964 except a few Firemen who were retrenched in September, 1964. Both Chanch and Victoria are coking coal mines but Chanch colliery has stopped production upon coal being exhausted. Victoria colliery is working on a very reduced scale. Begunia Colliery has not re-started; only two shafts which were filled up were taken up for cleaning and some incidental work were also taken up. Since no coal miners were recruited, the question of the concerned workman reporting for duty does not arise. In the circumstances the management has reiterated that it was perfectly justified in refusing employment to the concerned workman.

6. The management, in order to justify its action, has examined only one witness i.e. MW-1 Kanatdeb Sood an official of M/s. B.C.C. Ltd. and laid in evidence the Map prepared by Chanch-Victoria Area, Begunia Project. On the other hand, sponsoring union has examined two witnesses, namely, WW-1 Latu Jaswal who claims to have worked as Tyndal at Begunia colliery and WW-2 Jamuna Harijan, the concerned workman.

7. It has remained undisputed that Chanch, Victoria and Begunia collieries are coking coal mines and that Begunia colliery was owned by M/s. K. C. Thapar & Bros. Pvt. Ltd. Chanch colliery was owned by Bengal Coal Co. Ltd. and Victoria colliery by Birbhum Coal Co. Ltd. and all these collieries were having their registered offices at Calcutta. The management of all coking coal mines were taken over by the Central Government with effect from 17-10-1971 and all these collieries were nationalised with effect from 1-5-1972.

8. There is no dispute that Begunia colliery is situated in the State of West Bengal and it was closed with effect from 1-7-1964 and all the employees of that colliery including time-rated, piece-rated workers and miners were retrenched by the management of erstwhile owner.

It has been contended by the management that the sponsoring union, Bihar Colliery Kamgar Union, has no right or authority to raise this dispute inasmuch as the union is registered in Bihar and had no existence in Begunia colliery. The union has denied this contention of the management.

Undisputedly Bihar Colliery Kamgar Union is a registered union having its registered office in Bihar. But it is pointless to suggest that the union

has got no right to operate in an area outside the State of Bihar since there is nothing in the Trade Union Act, circumscribing the territorial jurisdiction of a registered union. Even so, the demand was made by the sponsoring union on M/S. B.C.C. Ltd. having its Head Office at Dhanbad in the State of Bihar. In this view of the matter I hold that the sponsoring union is competent to raise the present dispute.

Then again the management has contended that the concerned workman has not authorised the sponsoring union to raise the present industrial dispute. But the concerned workmen has not been confronted with any question while he deposed before this Tribunal as to whether he permitted the sponsoring union or did not permit the sponsoring union to raise the present dispute. On the other hand, he has stated that he is a member of a union led by Shri A. K. Ray and that many workmen are members of this union. It is common knowledge that Shri A. K. Ray is an ex-M.P. and one of the foremost leaders of Bihar Colliery Kamgar Union. That being so, I hold that the sponsoring union has full authority to raise the present industrial dispute.

It has been contended further by the management that since the sponsoring union had no existence in Begunia colliery in 1964 it has no authority to raise the present industrial dispute.

It appears that the present industrial dispute has been raised by the union on the footing that Begunia colliery has been re-opened. The management has of course denied this position. Even so, the claim of the union is that this colliery has been re-opened and the evidence of the concerned workman is indicative of the fact that many workmen of the colliery are members of the sponsoring union. So the matter is that the union has raised the present industrial dispute upon the footing that Begunia colliery has been re-opened and it has got following amongst the workmen of this colliery. The following of the union amongst the workmen of the colliery is supported by the evidence of the concerned workman. So, it can be stated that the union has got authority to raise this disputes. Of course the question whether the colliery has been re-opened or not is a live issue which requires to be determined in order to pass an award in the present reference either this way or that way.

9. The management has stated that Begunia colliery was closed with effect from 1-7-1964 because it was not possible to work the mine consistent with the safety requirement and all the employees of the colliery including time-rated, piece-rated and miners were retrenched under Section 25-FFF of the Industrial Disputes Act. The provision of Section 25-FFF envisages that where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of Section 25-F, as if the workman had been retrenched. Thus, it is obvious that the notice under Section 25-F is required to be issued to the workman upon closure of an undertaking. In the present case it must be concluded that these procedures were followed since no complaints have been made by either of the contending parties that the management of erstwhile owner did not follow the procedures laid down by the statute.

10. MW-1 Kapaldev has not stated anything to indicate that he was connected with Begunia colliery in any capacity while it was under the management of erstwhile private owner. So he is not in a position to state whether the concerned workman was employed in Begunia colliery as miner at the time when it was closed. On the other hand, the concerned workman has stated that in 1956 he was appointed in Begunia colliery as miner/loader and that his name was recorded in Form B register of erstwhile owner, and the erstwhile owner issued identity card to him. The management has not produced the Form B register of the erstwhile owner either to disprove the fact that the concerned workman was not appointed in Begunia colliery as miner/loader in 1956. On the other hand, the evidence of the concerned workman gets firm support from the testimony of WW-1 Latu Jaswal with regard to the fact that the concerned work-

man was appointed in Begunia colliery as mineh/loader. He has stated that he knows the concerned workman and that he had been working in Begunia colliery as miner/loader. He himself has asserted that he was appointed as Tyndal in Begunia colliery in 1952-53 and that in 1964 the colliery was closed and that in 1974 he got back employment from the management of M/S. B.C.C.L.

Considering the entire evidence on record I have no hesitation to hold that the concerned workman was employed as miner/loader in Begunia colliery and following my discussion earlier I hold also that he was retrenched from the service by the management of erstwhile owner of Begunia colliery upon closure of mine with effect from 1-7-1964. It remains to be seen now whether Begunia colliery has been re-opened or not. MW-1 Kapaldev Sood has stated that Begunia colliery is not working but Begunia Project is working and that Begunia Project is defunct from Begunia colliery. But the case of the management is that both the shafts of Begunia colliery were filled up with ash and it was long closed since 1-7-1964 and that in 1974 a decision was taken to utilise the two old shafts of Begunia colliery for making a new drive to develop a new area altogether through these two shafts and accordingly the two shafts were retained, renovated and repaired. It is the further case of the management that development of this new area through Begunia colliery shafts became necessary as the Chanch colliery located in Bihar was facing closure following coal being exhausted and that in 1976 Chanch Colliery was finally closed, but Victoria colliery is still working on a very reduced scale. Thus, it appears from the pleading of the management that two shafts of Begunia colliery were renovated, repaired and retained for making a new drive to develop a new area. MW-1 Kapaldev Sood has also stated that Begunia Project adjoins Begunia colliery and that the management cleaned pit nos. 6 and 7 of Begunia colliery upto 700 feet depth and that except for gaining access through Nos. 6 & 7 pit of Begunia colliery to Begunia Project the management not done any mining operation in any area belonging to the lease-hold interest of Begunia colliery. He has further stated that Begunia colliery had two seams—Begunia Seam and Laikdih Seam. He has admitted in cross-examination that opening of pit is a mining operation under the Mines Act. As far as he knows the management made an application to the Department of Mines for opening of Begunia 6 & 7 Pits. Thus, from the pleading of the management and evidence of this witness it appears that the management has been endeavouring to develop new area by making drive and opening of 6 & 7 pits of Begunia colliery. The map produced by the management also depicts the present Begunia colliery seam working after drive of a pair of drift crossing 130 M. Fault to the south during the year 1975 onwards. WW-1 Latu Jaswal has stated that M/S. B.C.C. Ltd. started a new Begunia colliery. The concerned workman has stated so. He has further stated that work is going on in Pits 6 & 7 and many old employees of Begunia colliery have been given employment by M/S. B.C.C. Ltd. This fact has been supported by the evidence of WW-1 Latu Jaswal also. Considering all these evidence I come to the conclusion that the management has been working on some sections of old Begunia colliery.

11. Section 25-H of the Industrial Disputes Act envisages that retrenched workmen who offer themselves for re-employment shall be given re-employment. But this re-employment can be claimed by the workman in accordance with the vacancies to be filled in by the management and by the seniority when there are more claimants than the number of vacancies. In the circumstances the management may consider the case of the concerned workman for his re-employment depending upon the vacancy in Begunia colliery or Begunia Project or to any colliery in Chanch-Victoria area.

12. Accordingly, the following award is rendered—the management of Chanch-Victoria Area is directed to consider the case of the concerned workman for re-employment provided there is any vacancy in Begunia colliery, Begunia Project or in any colliery of Chanch-Victoria Area.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer.
[No. I-19012 (19)/79-D. IV B./TR (C. II)]
R. K. GUPTA, Desk Officer

नई दिल्ली, 8 नवम्बर, 1989

का.प्रा. 3047.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूरैनियम कॉर्पोरेशन ऑफ इण्डिया लि., जादगुडा के प्रबन्धनत्व के सम्बन्ध निषेधाज्ञाओं और उनके कर्मचारियों के बीच, अनुसूच्य में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-89 को प्राप्त हुआ था।

New Delhi, the 8th November, 1989

S.O. 3047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Uranium Corporation of India Ltd., Jaduguda and their workmen, which was received by the Central Government on 7-11-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 6 of 1987.

PARTIES :

Employers in relation to the management of Uranium Corporation of India Ltd., Jaduguda Mines, Singbhum.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri J. P. Singh, Advocate.

For the Workmen—Shri D. K. Verma, Advocate.

STATE : Bihar.

INDUSTRY : Uranium

Dated, the 24th October, 1989

AWARD

By Order No. L-29012/39/86-D.III(B), dated, the 15th July, 1987, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

"Whether the dismissal from service of Shri A.K. Mukherjee, Assistant, Uranium Corporation of India Ltd., Jaduguda by the management of U.C.I. Ltd., Jaduguda w.e.f.

21-1-1986 vide order No. UCIL/PE/214-(Adm)/76 dated 21-1-1986 is justified ? If not, what relief is the workman entitled to ?"

2. The case of the management of Uranium Corporation of India Ltd., Jaduguda (hereinafter referred to as Corporation) as disclosed in its written statement-cum-rejoinder, details apart, is as follows :

A. K. Mukherjee, the concerned workman, was working as Assistant in the Accounts Department of Uranium Corporation of India Ltd., Jaduguda. On the allegation of misconduct committed by him, the management was constrained to issue a charge-sheet dated 16-8-1985 against him under the signature of R. C. Pattanayak, Manager (Pers. & Admn.). The chargesheet spelt out the provisions of certified Standing Orders with respect to the misconduct committed by the concerned workman under Clause 42 of the certified Standing Order and a statement of facts forming basis of the chargesheet accompanied it. The chargesheet was based on the report submitted to the Manager (Personnel & Administration) on 10-8-85 by S/Shri D. P. Dutta, Upper Division Clerk and S. K. Banerjee, C.C.P.A., Administration Department of the Corporation. They reported that in the night of 9-8-1985 the concerned workman, in drunken state came to the official quarter of D. P. Dutta, kicked the door which was closed from inside and abused him in filthy language and threatened to assault him. The concerned workman also uttered words against Shri Patanayak, Manager (Pers. & Admn.). In the same night at about 10.45 P.M., the concerned workman in a drunken state went to the official quarter of S. K. Banerjee and abused him in various ways and threatened to assault him and his brother. He also uttered words against Sri Patanayak and Sri M. K. Batra, Chairman & Managing Director. Somehow the daughter of the concerned workman arrived and persuaded him to leave the place and the neighbours witnessed the incidents. In terms of the chargesheet the concerned workman was directed to show cause in writing within three days from the date of receipt of the chargesheet as to why disciplinary action should not be taken for the misconduct allegedly committed by him. He received the chargesheet and submitted a show cause on 17-8-1985. The explanation provided by the concerned workman in show cause is indicative of the fact that he had nothing to say against the allegation of misconduct made against him in the chargesheet. Anyway, the management considered the explanation provided in the show cause and found the same to be not satisfactory and by order dated 21-8-85 decided to hold departmental enquiry and appointed Shri A. K. Sinha, Dy. Manager (Personnel & Industrial Relations) to hold enquiry into the charges laid against him. By the same Office Order Sri C. P. Verma, Personnel Officer (Mines) was nominated as management's representative to present the case of the management before the Enquiry Officer. The domestic enquiry commenced on 26-8-85 in the office of the Dy. Manager (Personnel & Industrial Relations) and ended on 16-9-85. The concerned workman participated in the domestic enquiry fully and in the course of the domestic enquiry the witnesses for the management were examined and all the necessary documents were presented by the management representative in presence of the concerned

workman and the co-worker selected by him for his assistance without any objection on their part. He was given full opportunity to cross-examine the witnesses for the management. At the close of the case of the management the concerned workman was given opportunity to give his own statement which he did and was cross-examined by the management's representative. He did not, however, examine any witness in his defence. After considering the evidence of both the parties and hearing the argument the Enquiry Officer found the concerned workman guilty of the misconduct under various clauses of the Standing Order. The report was considered by the competent authority i.e. Manager (Personnel & Administration) of the Corporation and the previous record of punishment awarded against the concerned workman was also considered. The Competent Authority thereafter passed an order of his dismissal from service by Office Order dated 20/21-1-1986 which was duly communicated to him.

3. The case of the concerned workman as disclosed in his written statement, briefly stated, is as follows :

He was permanent employee of the Corporation and was working there as Accounts Assistant to the satisfaction of all concern. He is Working President of Uranium Mazdoor Sangh operating at Jaduguda Mines of the Corporation. He was chargesheeted by the Manager (Personnel & Administration) of the Corporation by Chargesheet dated 16-8-85. But the charges levelled against him do not constitute misconduct as per certified Standing Order of the Corporation. He replied to the charge-sheet denying the charges. But the Manager without considering his reply held a domestic enquiry. The Enquiry Officer conducted the enquiry in a perfunctory manner without following the principles of natural justice. He has alleged that the Enquiry Officer did not give him full opportunity to defend himself and submitted a perfunctory report and that the management, without considering the enquiry proceeding and enquiry report properly, dismissed him from service. He has asserted that the alleged occurrence did not take place within the premises of the Corporation. He has further asserted that he is protected workman under the Industrial Disputes Act and alleged that the domestic enquiry held by the management was not fair and proper.

4. In rejoinder to the written statement of the concerned workman the management has asserted that the occurrence took place in the residential colony of the Corporation closed to the work premises and it is wrong to say that the occurrence did not take place within the premises of the Corporation.

5. In rejoinder to the written statement of the management the concerned workman has denied and disputed every allegation made against him.

6. Since the concerned workman was dismissed from service by the management preceded by a domestic enquiry, the fairness and propriety of the domestic enquiry was considered as a preliminary issue. The Enquiry Officer figured as a witness for the management while the preliminary issue was considered. Upon consideration of evidence on record it

was held that the domestic enquiry was held fairly and properly. It remains to be seen now as to whether the action of the management in dismissing the concerned workman from service of the Corporation on the ground of misconduct allegedly committed by him is sustainable on merits upon the evidence on record.

7. Sri J. P. Singh, learned Advocate for the Corporation has submitted before me that the evidence on record firmly establishes the fact that the concerned workman committed grave misconduct as specified in the chargesheet and so his dismissal from service by the management is fully justified. He has further submitted that the concerned workman committed the misconduct within the premises of the Corporation and so he cannot escape from the provisions of misconduct as envisaged in the certified Standing Order. He has rounded off his argument by submitting that the management took into consideration his earlier misconduct and punishment followed therefrom in awarding penalty of his dismissal from service.

8. Shri D. K. Verma, learned Advocate for the workman has urged before me that the concerned workman did not commit any misconduct in the premises of the Corporation and that the alleged misconduct was not connected with his employment. In support of his submission he has cited the decision reported (1) Lab. I.C. 1987 page 1909 and (2) Lab. I.C. 1984 page 658. He has further submitted that even if it is considered that the alleged occurrence took place within the premises of the Corporation, the evidence on record does not establish the charges of misconduct levelled against the concerned workman. He has criticised the charge by contending that a general omnibus statement of facts has been made and as many as five clauses of the certified Standing Order have been mentioned without spelling out the facts specifically which are related each and every of the five counts of charges. According to him, the infirmities indicated in the charge have resulted in ambiguities of charge and thereby miscarriage of justice has been committed.

9. Admittedly, A. K. Mukherjee, the concerned workman was a permanent employee of the Corporation at Jaduguda Mines; he was working there as Accounts Assistant. The concerned workman has emphatically stated in para 2 of his written statement that he was working as Accounts Assistant at Jaduguda Mines to the satisfaction of all concerned. This statement of fact has not been disputed by the management of the Corporation.

10. It appears that consequent upon an alleged occurrence that took place in the night of 9-8-85 as reported by Shri D. P. Dutta, Upper Division Clerk and S. K. Banerjee, C.C.P.A., Administration Department of the Corporation a chargesheet was laid against the concerned workman. The chargesheet is gleaned hereinbelow :

"It is reported that Shri A. K. Mukherjee, Assistant, Accounts Department at about 10.30 P.M. on 9-8-85 went to the residential quarter No. B/29/225 of Shri D. P. Dutta, Clerk (U/D), in drunken state. He kicked at the door of Shri Dutta closed from inside and started abusing him in filthy

language at his door-step as under :—

'Shala Dutta Tum Bahar ao. Tum Pattanayak ka Chamcha Hai. Darwaja Kholo. Tumko Dekh Lega. Shala Dutta Suar ka Bachcha. Tum kal Peon tha. Sabko Pani Pilata Tha. Aj Baboo ban gaya hai. Toka mai jutta peta karbo. Shala Pattanayak hamara pass nahi karta karta hai. Pattanayak Bihari, Bengali kishi ko nahi leta. Khali orriya bharti karta hai. Niklo shala hamara 16 admi revolver lekar khara hai. Tumko tumhare Mrs. ke samne zinda jala dega. Tum nagrajan ke post par par zo administrative officer aya hai use paisa udhar leta hai our usko khichari khilata hai. Shala suar ka bachcha tum Pattanayak, Batra, Bhasin sabko bulao kaun tumko bachayeka.'

While Shri Mukherjee was shouting abuses, residents of Block No. B/29 and Type-III of Block No. 8 got up and witnessed the scene.

After abusing and threatening Shri Dutta repeatedly, Shri Mukherjee left the place and immediately thereafter he went to the residence of Shri S. K. Banerjee, CCPA, Qr. No. C-19/76 with a long stick in his hand and started abusing Shri Banerjee in filthy and provocative languages continuously striking his door with the stick from outside as under :—

'Banerjee shala niklo. Tum Pattanayak ka chamcha. Shala kal L.D.C. tha aaj C.C.P.A. ban gaya chamcha karke. Tum shala bahar niklo ham tumko zinda jala dega. Pattanayak Batra sabko dekh lega. Bombay Delhi me hamara power hai. Tum shala bahar niklo. Ham dekhega. Tum kaya sochta hai ham akela hai. Ham akela nahi hai. Ham Daroo peenev sey hamara sense hai. Hamara sath chhau aadmi hai aur tumko ham nahi chhorega. Bahut din chhor diya. Hamko nahi janta hai hamara power bahut hai. Kal subah phir aayega. Tumhara aur Pattanayak ka naukari kha lega. Tumahara bhai helper mey kiva aur bahut phutani karta hai us shala ko bhi ham dekh lega. Kal subah ham tumko zinda jala dega. Ham brahman ka bachcha hai.'

While hurling filthy abuses and threatening Shri Banerjee, Shri Mukherjee appeared to be in a drunken state. The scene was witnessed by many residents of the locality. Ultimately at about 11 P.M. Shri Mukherjee's eldest daughter persuaded him and guided him to his residence.

S/Shri Dutta and Banerjee and their family members were so much panicked that they did not open their door and had to tolerate the

abuses without uttering a single word." (Ext. M-1).

11. After narrating these statements of facts certain clauses of the certified Standing Order have been mentioned which are reproduced hereinbelow :

"CSO—42(h) : Conduct on the part of the employees which endangers the life or safety of the other employees.

CSO—42(i) : drunkenness, riotous or disorderly or indecent behaviour within the premises of the Company or the establishment.

CSO—42(o) : performing anything which is objectionable or violative of common decency.

CSO—42(p) : Threatening, intimidating, molesting or assaulting an employee of the Company.

CSO—42(bb) : Commission of any act subversive of discipline or good behaviour on the premises of the Company or the establishment ;

CSO—42(II) : Criticising or making false allegation against his superior officer, colleague or subordinate."

Thus, it is evident that the statements of facts have not been made with specific reference to each and every count of five charges. This being the position the concerned workman was left to grope in darkness as to which part of his specific conduct constitutes charge under Clauses 42(h), 42(i), 42(o), 42(p), 42(bb) and 42(II) of the Certified Standing Orders. I consider that in these context of facts and circumstances the criticism made by Shri D. K. Verma, Advocate, for the concerned workman about the charges has some force of its own. Indeed, the concerned workman was not informed of the specific facts which constitute misconduct under different counts of charge which he was required to meet. His explanation to the charge (Ext. M-3) is a specific instance of a perverted and crazy mind. We do not know it for certain what would have been his reaction and explanation were the charges explained to him with clarity and precision. In the circumstances, it may not be unreasonable to hold that he was put to much difficulties in the way the charge was framed as indicated earlier.

12. However, the chargesheet aforesaid was issued by Mr. R. C. Pattnavak, Manager (Personnel & Administration). He also issued Office Order bearing No. UCIL/PF/214(Adm.)/85 dated 10-8-85 in terms of which the concerned workman was suspended from service pending further proceeding and order in the matter (Ext. M-7). Mr. Pattnavak also issued Office Order bearing No. Ref. : UCIL/PF/214(Adm.)/85 dated 21-8-85 holding that the explanation given by the concerned workman in the show cause was not found satisfactory and directed that a domestic enquiry would be held by Sri A. K. Sinha, Dy. Manager (Personnel & Industrial Relation) and that Sri C. P. Verma, Personnel Officer (Mines) would act as representative of the management to present the

case of the management before the Enquiry Officer (Ext. M-2). Sri A. K. Sinha, the Enquiry Officer has been examined by the management as MW-1. He has admitted in cross-examination that he works under Sri Patnaik. It was also Sri Pattnayak who considered the enquiry report and dismissed the concerned workman from service by order bearing No. Ref. : UCIL/PF/214(Adm.)/86 dated 20/21-1-86 (Ext. M-18). It was suggested to Sri Sinha, witness for the management, that since he works under Sri Pattnayak he simply prepared an enquiry report tailored and dictated by the latter. Of course Sri Sinha has denied the suggestion, but the fact remains that Sri Pattnayak donned the mantle of supremo and did practically everything upto the stage of commencement of domestic enquiry. The chargesheet discloses that the concerned workman allegedly made some oblique reference about Sri Pattnayak and this presumably explains somewhat extraordinary interest that the latter demonstrated in the matter and in the circumstances the desire of his ensnaring the unfortunate workman cannot be wished away.

13. It has already been pointed out before that the charge discloses narration of facts which gave rise to misconduct on five counts under different clauses of the certified Standing Order without specifically mentioning the facts relating to each and every count of charge. It appears that some of the counts of charge overlapped each other in the context of facts narrated in the charge. Besides, charge framed under clause 42(h) 'conduct on the part of the employees which endangers the life or safety of the other employees', Clause 42(o) 'performing anything which is objectionable or violative of common decency' and Clause 42(p) 'threatening, intimidating, molesting or assaulting an employee of the company' must be considered with reference to the business premises of the employer for the simple reason that the employer cannot claim any extra territorial jurisdiction because otherwise the Certified Standing Order of the employer will make inroad into the general law of the land. In otherwards, the employer cannot usurp the general law of the land beyond its business premises or establishment by framing penal provisions in its certified Standing Order.

14. The Enquiry Officer has come to the conclusion that the occurrence took place in the residential colony of the company housing many vital installations of the company like electrical sub-stations, sewage treatment plant and other office establishments and, therefore, the concerned workman has done the misconduct listed in the charge in the company's premises. But unfortunately there is no evidence on record to indicate that the residential colony of the company comprises many vital installations of the company, such as, electrical sub-stations, sewage treatment plant and other office establishments. It appears that the Enquiry Officer, in his zeal, has imprinted his own conceptions about the residential colony and thereby has drifted away from the hard facts appearing from the evidence.

Shri J.P. Sinha has drawn my attention to the fact that the housing colony of the Corporation was declared as prohibited place by the Government of Bihar

(Ext.M-21). The position may be so, but that does not prove or establish that the residential colony of the employees of the Corporation comes within the perview of business premises of the Corporation or establishment.

15. Clause 42(h) of the certified Standing Order envisages conduct on the part of the employee which endangers the life or safety of other employee. In this context this conduct must be attributable to conduct within business premises of the employer. It remains to be seen whether the conduct of the concerned workman was such which endangered the life and safety of other employees within the business premises of establishment of the Corporation. The case of the management is that the concerned workman visited residential quarter No. B/29/225 of D. P. Dutta, U. D. Clerk and the residential quarter No. C-19/76 of S. K. Banerjee, CCPA in the night of 9-8-1985 at about 10-30/10-45 P.M. and conducted himself in such a way as to endanger the life and safety of other employees. Although Sri Dutta has stated in his complaint that the members of his family were panic stricken (Ext. M-4), he has not vouched for this fact at the time of domestic enquiry. The complaint of S. K. Banerjee discloses that the members of his family were panic stricken by the conduct of the concerned workman (Ext.M5). In the domestic enquiry Sri Banerjee has stated that the concerned workman threatened to burn him, but he has not stated anything so as to suggest that he considered the threat of the concerned workman seriously and felt his life endangered. No witness of the locality has vouched for the fact that the conduct of the concerned workman endangered the life of the employees of the locality. In the circumstances the conclusion of the Enquiry Officer that the action of the concerned workman created panic in the locality is nothing but a figment of imagination and is not bolstered up by the facts. This being so, the charge on this count must founder on the ground.

16. The next count of charge is under clause 42(i) of the certified Standing Orders which spells out drunkenness, riotous or disorderly or indecent behaviour within the premises of the company or establishment. It is evident that the place of occurrence was not the business premises of the company. The alleged occurrence took place beyond duty hours of the employees and in the quarters of S/Shri D. P. Dutta and S. K. Banerjee. The management has produced a medical certificate given by Dr. P. K. Das which indicts that the concerned workman was under influence of Alcohol on 10-8-85 at 4.10 A.M. when he was examined (Ext. M-6). But this doctor has not been examined. Medical certificates are not themselves admissible in evidence. They must be proved by the testimony of the persons giving them (AIR 1937 (Cal) 697). Both S/Shri Dutta and Banerjee have stated that the concerned workman was drunk. But the evidence does not disclose that they came so close to the concerned workman as to feel that he was drunk. Even if he was considered to be drunk, the narration of fact in the chargesheet only indicates that he kicked at the door of the quarter of Dutta and abused him in filthy language and rapped at the door of the quarter of Sri Banerjee and abused in filthy language and threatened him. For this conduct

of his specific charge under clause 42(p) of the certified Standing Orders was framed and this runs as follows :

“Threatening, intimidating, molesting or assaulting an employee of the Company.”

The evidence on record does not disclose that besides abuse and threat the concerned workman conducted himself in such a way as to suggest that he behaved riotously or disorderly or indecently. This being the position, this charge is not also sustainable by evidence on record.

17. The charge under clause 42(o) of certified Standing Orders ‘performing anything which is objectionable or violative of common decency’ and clause 42(bb) ‘commission of any act subversive of discipline or good behaviour on the premises of the company or establishment’ is not also sustainable upon the facts gleaned in the statement of charge, for besides abusing and threatening the concerned workman has not done anything which can be considered objectionable or violative of common decency or commission of any act subversive of discipline or good behaviour on the premises of the company or establishment.

18. The concerned workman has been arranged on the charge of misconduct for having criticised or made false allegations against his superior officer, colleague or subordinate under clause 42(11) of the certified Standing Orders. It has been held by the Enquiry Officer that the concerned workman called Sri S. K. Banerjee ‘CHAMCHA’ (Flunkey) of Sri Pattnayak and became CCPA and his brother, though appointed as helper, was showing himself off as some one important. Flunkey is term of abuse. It hardly constitutes any criticism of Sri Banerjee. The Enquiry Officer held that the concerned workman inebriated himself while speaking so. In such circumstances, nobody takes the remarks of a person who has no control over himself. There is nothing on record to show that Sri Banerjee had taken umbrage at these particular remarks of the concerned workman. Then again, the Enquiry Officer has held that the concerned workman made criticism and made false allegations against his superior officer Sri Pattnayak by remarks that ‘Pattnayak Bihari, Bengali Kishi Ko Nahi Leta. Khali Orriya Bharti Karta Hai’. The Enquiry Officer has held that the concerned workman could not prove his criticism or allegation. But it must be remembered that it is not duty of the concerned workman to prove his criticism or allegation, even if he has made any and it is the bounden duty of the management to disprove it. There is no evidence on record that Sri Pattnayak was impartial and fair about recruitment of staff. Even so, the Enquiry Officer has stated in his testimony that the chargesheet does not bear out the position that the concerned workman abused Sri Pattnayak directly. In these view of the matter I am not satisfied that this charge has appropriately proved by the management.

19. The last charge is the charge of threatening, intimidating, molesting or assaulting an employee of the Company under the provision of Clause 42(p) of the Certified Standing Orders. There is no evidence that the concerned workman molested assaulted any

employee of the Company; there is no charge also on that score. The evidence on record indicates that he abused both Sri Dutta and Sri Banerjee and also threatened the latter. This charge against the concerned workman has been proved but it has not been proved that it was committed within the duty hours and within the business premises of the Company.

20. Anyway, even if this count of charge is considered to have been proved, the punishment of dismissal from service is considered to be disproportionate to the offence of misconduct committed by him. Punishment is not the end of justice, Objective of justice is as much to reform the delinquent by showing mercy.

It has been urged by Sri J. P. Singh that his previous misconduct and punishment followed therefrom was considered at the time of inflicting the punishment on him. It appears that earlier the concerned workman was punished for misconduct of holding meeting and conducting procession inside the Company's premises without previous permission, criticising or making false allegation against superior officer etc. and as a measure of punishment his annual increment for a period of two years was withheld without cumulative effect (Ext.M-10). But the note of Sri Pattnayak (Ext.M-17) does not indicate that he considered this punishment while dismissing the concerned workman from service. He has simply stated that past service record of the concerned workman does not speak well of him. That being so, the punishment of dismissal of the concerned workman from service is not sustainable on this score as well.

21. The concerned workman produced two News Paper cuttings in the domestic enquiry. In one of such News Paper cutting which runs under the heading ‘Second Bhopal in offing’, the concerned workman as Working President of Uranium Mazdoor Sangh complained about the radiation and apprehended that anything could happen by the effect of radiation in Jaduguda Area where mine and plant of Uranium Corporation of India Ltd. were located. The Enquiry Officer has admitted that he has not considered this News paper cuttings and the criticism about the workings of the management of the Corporation as the same was not considered relevant. He was enquiring into the allegation of misconduct of the concerned workman and so it was his duty to explore evidence to ascertain whether the management was proceeding fairly against him or not or whether the management was actuated by pent up anger against him for his criticism of the management. This criticism was not personal but for the good of the public at large and so the Enquiry Officer was not justified in ignoring this criticism.

22. It appears that the concerned workman was put under suspension from 10-8-85 and during the period of suspension he was allowed subsistence allowance only and he was ultimately dismissed from service, with effect from 21-1-1986. I think that in the circumstances it will meet the ends of justice if the concerned workman is reinstated in service with effect from the date of this reference i.e. 15-7-1987 with 50 per cent of back wages from the date of reference till he resumes his duty. Justice must be tem-

pered with mercy and the delinquent workman should be given an opportunity to reform himself and to give a satisfactory conduct of himself as an employee of the Corporation. In support of this provision, the decision reported in AIR 1989 SC. 149 may be cited. In this view of the matter I consider that his dismissal from service by his employer Uranium Corporation of India Ltd. is not justified and that he should be reinstated in service.

23. Accordingly, the following award is rendered—the action of the management of Uranium Corporation of India Ltd. in dismissing the concerned workman from service with effect from 21-1-86 is not justified. The management is directed to reinstate him in service with effect from the date of reference i.e. 15-7-1987 with 50 per cent of back wages till he resumes his duty and to give him continuity of service from the date of his dismissal from service till he resumes his duty. The management is directed to reinstate him in service with back wages as mentioned above within one month from the date of publication of the award and the concerned workman is directed to report for duty within that period.

In the circumstances of the case. I award no cost.
S. K. MITRA, Presiding Officer
[No. L-29012/39/86-DIII(B)]
V. K. SHARMA, Desk Officer

नई दिल्ली, 9 नवम्बर, 1989

का.प्र. 3048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ पटियाला के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण, जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9 नवम्बर, 1989 को प्राप्त हुआ था।

New Delhi, the 9th November, 1989

S.O. 3048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Jaipur as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Patiala and their workmen, which was received by the Central Government on 9-11-1989.

परिशिष्ट

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी. आई. टी. 13/84

रेकर्ड्स : भारत सरकार, श्रम मंत्रालय, नई दिल्ली की आज्ञा क्रमांक एल. 12012/112/83—डी. II, (ए) दिनांक 6-12-83 श्री सायर मल मोणा पुत्र श्री धानीराम मर्फत श्री रामचन्द्र नारंग, भारतीय मजदूर संघ कार्यालय, सी-7, एम. एल. ए. बार्डर्स, जयपुर (राजस्थान)

—प्राथी पक्ष

बनाम

जनरल मैनेजर, स्टेट बैंक आफ पटियाला, राजनल आफिस, सी-31, कनाट प्लेस, नई दिल्ली

—नियोजक पक्ष

उपरिस्थिति

प्राथी पक्ष की ओर से : श्री आर. सी. नारंग
नियोजक पक्ष की ओर से : श्री यू. आर. मण्डारो
दिनांक 25-5-88 :

अवार्ड

भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपनी उपर्युक्त आज्ञा द्वारा निम्न विवाद इस अधिकरण को वास्ते अधिनियम भेजा है।

"Whether the action of the management of State Bank of Patiala, New Delhi in relation to their Branch Office, Jaipur in terminating of Shri Sayamal Meena, Peon with effect from 21-2-1981 is justified? If not, to what relief is the workman concerned entitled?"

2. बाद प्राप्ति उक्त रेकर्ड्स इस न्यायाधिकरण में इसे पंजीकृत किया गया व सम्बन्धित पक्षकारों को नोटिस जारी किये गये। श्री सायर मल मोणा पुत्र श्री धानीराम मर्फत से सत्यवत कर्मकार लिखा जाएगा, की ओर से क्लेम निम्न प्रकार पेश किया गया है :

यह कि कर्मकार दिनांक 17-11-80 से 23-11-80 तक बिना किसी बेतन के रिक्त स्थान पर यह कह कर कार्य लिया कि इसकी स्थाई पद पर नियुक्ति दे दी जाएगी। इस प्रकार 17-11-80 से 23-11-80 का उसे कोई बेतन देय नहीं होगा नाकि उसे स्थाई पद प्राप्त हो सके। आगे यह व्यक्ति किया कि इस कारण प्राथी कर्मकार मे इस अवधि में बिना बेतन किए कार्य करना स्वीकार किया। इस सम्बन्ध में यह भी व्यक्त किया गया कि इस अवधि में यानि 7 दिन के दौरान बैंक की जयपुर स्थित शाखा में वो पब चतुर्थ श्रेणी कर्मचारी के थे। दोनों में से एक स्थान पर उसने चपरासी के पद पर कार्य किया एवं दूसरे पद पर श्री ओम प्रकाश ने कार्य किया आगे व्यक्त किया कि अप्राथी बैंक ने 24-11-80 को स्थाई आधार पर नियुक्ति प्रदान कर दी जिसे प्रारम्भ में अस्थाई आधार बताया गया और यह कहा गया कि प्राथी कर्मकार के द्वारा 80 दिन कार्य कर लेने के पश्चात उसे स्थाई कर दिया जाएगा। आगे व्यक्त किया कि प्राथी से 80 दिन से अधिक कार्य लिया गया जिसकी पुष्टी परिशिष्ट "म" से होती है और इस कारण से भी होती है कि माधारण तथा अस्थाई कर्मकार को 80 दिन से अधिक का पद नहीं रखा जा सकता। इस सम्बन्ध में यह भी व्यक्त किया कि अस्थाई चपरासी लिया गया जिसकी छाया प्रतिलिपि बैंक के खाता संख्या 4.238 पन्ना 451/1 है जो परिशिष्ट "ब" संलग्न है जिसे दिनांक 1-12-80 को खोया जाना दिखाया गया है क्योंकि प्राथी को प्रथम देय बेतन 1-12-80 को ही बनता था। आगे यह भी कहा कि प्राथी अनुसूचित जन जाति का कर्मकार है एवं अनुसूचित जन जाति का पब आरक्षण के आधार पर उस समय स्थाई था। प्राथी को उस समय नियोजन कार्यालय का पत्र भी बनवाने को कहा गया था जो उसने प्रस्तुत कर दिया। आगे व्यक्त किया कि प्राथी कर्मकार ने रिफाई के आधार पर 24-11-80 से 21-2-81 तक अप्राथी संख्या 1 के यहाँ पूर्ण रूप संतोषजनक कार्य किया जब कि अप्राथी संख्या के पास स्थान भी रिक्त था और कार्य भी था। यह भी आरोप लगाया कि प्राथी के पारितोषिक की रकम का प्राथी कर्मकार इनने थोड़े समय में प्रबन्ध नहीं कर सका इसलिए उसे 22-2-81 को काम पर से बिना नोटिस दिये हटा दिया गया। इस प्रकार औद्योगिक विवाद अधिनियम की धाराओं का अप्राथी संख्या 1 ने उल्लंघन किया। आगे यह भी आरोप लगाया कि प्राथी को कार्य से हटा कर श्री सूर्य प्रकाश को नियुक्ति दे गई जो कानूनी प्रावधानों का खूला उल्लंघन है इसलिए प्राथी को 22-1-81 से बहाल किये जाने का अधिकारी बनाया। आगे यह भी व्यक्त किया कि बैंक के नियमानुसार प्राथी कर्मकार को 14 दिवस का नोटिस दिया जाना आवश्यक था जो नहीं दिया गया और बिना नोटिस के कार्य से हटाना अनुचित एवं अवैध था। प्राथी की ओर से मास्त्री अवार्ड के पैरा 522(4) को निर्देशित करते हुए यह प्राथी की कि प्राथी

की सेवा समाप्ति अनुचित थी, अवैध थी और इसे दिनांक 21-1-81 से पुनः सेवा में बहाल किया जाए व उसे सभी लाभ दिलाए जाएं।

अप्राथीगण की ओर से जॉनल प्रबंधक, दिल्ली ने प्रार्थी के उग्रोका क्लेम का उत्तर निम्न प्रकार से पेश किया :

यह कि सहायक श्रम आयुक्त अजमेर के पत्र दिनांक 4-1-83 में यह अंकित किया गया था कि श्री सायर मल मीणा को एक सीमित अवधि के लिए काम पर लगाया था जिसे स्थाई आधार पर नियुक्त नहीं किया गया था। जिसने 90 दिन तक स्थाई गैजेटेड कम फरश के पद पर जयपुर ब्रांच में कार्य किया। बैंक की ओर से यह भी कहा गया कि वह पद जिसके विरुद्ध श्री सायर मल मीणा को नियुक्त किया गया वह अस्थायी था। यह भी व्यक्त किया कि बार्डपार्टिडेंट सेंटनमेन्ट के पैरा 20.7 के अनुसार एक व्यक्ति को तीन माह तक के लिए अस्थायी नियुक्ति दी जा सकती है। आगे क्लेम का यह तथ्य गलत होना कहा कि प्रार्थी कर्मचार जिस पद के विरुद्ध नियुक्त किया गया वह स्थाई था और यह अनुसूचित जनजाति के लिए सुरक्षित था। इस संबंध में यह भी कहा गया कि बैंक के अनुसूचित जाति व अनुसूचित जनजाति के व्यक्तियों के स्थान आरक्षित रखने की पालिसी को माना रहा है। इस संबंध में यह भी कहा कि प्रार्थी सायर मल मीणा को सीमित अवधि के लिए लगाया गया था और इस अवधि की समाप्ति पर इसकी सेवा समाप्त की गई। यह एक अनुसूचित लेबर प्रेक्टिस नहीं है। आगे यह भी एतराज किया कि निर्दिष्ट कर्मचारों के चयन की प्रक्रिया पूरी करने के बाद व साक्षात्कार लेने के बाद ही लगाया जाता है। ऐसा नहीं हुआ कि प्रार्थी कर्मकार को अस्थायी पद के लिए समेकित समय तब के लिए लगाया गया हो। आगे यह भी व्यक्त किया कि श्री सायर मल मीणा का केस औद्योगिक विवाद अधिनियम की धारा 25 एफ से कवर नहीं होता है क्योंकि उसमें एक कैलेंडर वर्ष में 240 दिन लगातार कार्य नहीं किया। क्योंकि प्रार्थी मीणा की सेवाएं एक विशेष अवधि के लिए ही थीं। उसे पहले ही इस बात का नोटिस था कि उसकी सेवाएं कभी भी बिना नोटिस के समाप्त की जा सकती हैं। क्योंकि श्री मीणा परिवीक्षा में ही था इसलिए उसके केस में 14 दिन का नोटिस दिये जाने का प्रश्न नहीं उठता। आगे यह भी व्यक्त किया कि श्री मीणा का केस धारा 25 (जी) और (एच) अधिनियम से कवर नहीं होता है। अतः इन दोनों धाराओं की औद्योगिक विवाद अधिनियम के नियम 76, 77 व 78 के साथ पढ़ें तो यह विबिन होगा कि धारा 25 (जी) और (एच) तभी लागू होंगी जबकि कर्मकार ने 240 दिन की सेवा लगातार पूरी कर ली हो। आगे प्रार्थना की कि प्रार्थी की कम्प्लेंट को खारिज किया जाए।

प्रार्थी ने अपने क्लेम की सम्पुष्टि में स्वयं का शपथ पत्र पेश किया जिसे इस न्यायाधिकरण द्वारा स्वीकारित किया गया और श्री यू. आर. भण्डारी ने उससे जिरह की। अप्रार्थी बैंक की ओर से श्री आई. पी. कुमार मैनेजर जयपुर ब्रांच ने शपथ पत्र पेश किया जिसे इस न्यायाधिकरण द्वारा स्वीकारित किया गया। श्री नारायण ने उससे जिरह की। प्रार्थी के अधिकृत प्रतिनिधि ने केन्द्रीय औद्योगिक न्यायाधिकरण, कानपुर का अवार्ड जो 18-2-86 को पत्रिण्डा हुआ था, उसकी प्रतिलिपि पेश की। इस न्यायाधिकरण के समक्ष विचारणीय प्रश्न यह है कि आया सायर मल मीणा की सेवाएं दिनांक 21-1-81 को समाप्त करके स्वीकारित था और यदि नहीं तो प्रार्थी किस राहत को प्राप्त करने का अधिकारी है।

उपरोक्त विवाद के संबंध में श्री सायर मल मीणा का शपथ पत्र काबिले गौर है जिसमें यह व्यक्त किया है कि उगने दिनांक 17-11-80 से 24-1-81 तक चपरासी के पद पर स्टेट बैंक आफ पटियाला की जयपुर शाखा में कार्य किया। दिनांक 22-1-81 को जब वह कार्य पर गया तो कार्य होने हुए भी उसे काम नहीं दिया और उसने कनिष्ठ कर्मकार सूरज प्रकाश को उस स्थान पर नियुक्ति दे दी। आगे व्यक्त किया

कि दिनांक 13-9-85 के पत्र के अनुसार बैंक में पूर्व में कार्यरत कर्मकारों की जगह नियुक्ति हेतु आवेदन पत्र भेजे गए। उगने भी आवेदन किया और वह साक्षात्कार हेतु बण्डोवतु भी गया। एक वर्ष पूर्व वह बण्डोवतु साक्षात्कार हेतु गया था मगर उसके रिजल्ट का कोई उत्तर नहीं आया। प्रार्थी ने वह भी व्यक्त किया कि उसने बैंक के विभागों के अनुसार 90 दिन कार्य किया परन्तु कार्य से हटाने समय उसे 14 दिन का बेतन या नोटिस नहीं दिया। जिरह में श्री सायर मल ने व्यक्त किया कि उसे 17-11-80 को रखा गया था और 24-11-80 से उसका बेतन चालू किया। आगे जिरह में यह माना कि उसे 21-1-81 को कार्य से हटाया था और उसके हटाने के 2-3 दिन बाद सूरज प्रकाश को लगाया था। आगे यह लिखा कि वाव में उसे इन्टरव्यू में बुलाया था और वह इन्टरव्यू में गया उसका रिजल्ट आज तक नहीं आया।

नियोजक संस्थान की ओर से श्री आई. पी. कुमार मैनेजर, जयपुर ब्रांच स्टेट बैंक आफ पटियाला पेश हुए। जिसने अपने शपथ पत्र में व्यक्त किया कि सायर मल को एक सीमित समय के लिए काम पर लगाया गया था। जो पद अस्थायी प्रकृति का था। इस तथ्य को नकारा कि श्री सायर मल को परमानेंट एम्प्लोई के तौर पर लगाया हो। यह भी व्यक्त किया कि श्री सायर मल का केस शास्त्री अवार्ड के क्लाज 508 (गै) से कवर होता है। यह भी व्यक्त किया कि परमानेंट नियुक्ति के संबंध में प्रार्थना पत्र भेजना कर इन्टरव्यू आदि की प्रक्रिया हुई है। इस गवाह ने प्रपरीक्षण में यह स्वीकार किया कि प्रार्थी सायर मल को नियुक्ति पत्र दिया आना रिकार्ड में नहीं पाया जाता है। इस गवाह ने यह भी प्रतिपरीक्षण में माना कि नोकरी से निकालते समय सायर मल को कोई नोटिस नहीं दिया। इस गवाह ने जिरह में यह भी माना कि 17-11-80 से 23-11-80 तक बैंक में दो चपरासीयों ने काम किया। जिरह में यह भी माना कि सन 1980 से 1982 तक तीन प्रकाश को अस्थायी नियुक्त किया। दूसरा सायर मल माणा तीसरा अश्व कुमार, प्रदीप कुमार, हेमराज, गणपत लाल, सूर्यनारायण माणा, पन्ना लाल और गजराज सिंह को अस्थायी तौर पर लगाया गया। इस गवाह ने जिरह में यह भी माना कि सायर मल की सेवाएं 1-1-81 को समाप्त की गई। गवाह ने यह भी माना कि सूर्य नारायण मीणा ने 1-6-81 से 8-8-81 तक कार्य किया। आगे यह भी माना कि बैंक ने ऐसे कर्मकारों को तृप्ति करने के लिए बुलाया था जिनमें प्रार्थी सायर मल को बुलाया जाना भी माना। यह भी आगे स्वीकार किया कि उनका अभी तक परिणाम नहीं आया है। उपरोक्त साक्ष्य की निर्दिष्ट करने हुए योग्य अधिकृत प्रार्थी ने बहस की कि प्रार्थी ने 90 दिन तक बैंक का एम. आई. रोड ब्रांच में काम किया और प्रार्थी और प्रार्थी को बैंक का सेवा में निगलने पर शास्त्री अवार्ड के मुताबिक 14 दिन का नोटिस नहीं दिया न ही उसकी सेवा पुस्तिका बनाई गई। यह भी बहस की कि शास्त्री अवार्ड के अनुसार "पीछे आए पहले जाए" के सिद्धांत को नहीं अपनाया गया। योग्य अधिकृत प्रतिनिधि ने यह भी बहस की कि प्रार्थी सायर मल को हटाने के पश्चात् प्रदीप कुमार, प्रदीप कुमार, हेमराज, गणपत लाल, सूर्य नारायण, पन्ना लाल और गजराज सिंह को लगाया गया जो उससे कनिष्ठ थे। योग्य अधिकृत प्रतिनिधि ने यह भी बहस की कि प्रार्थी सायर मल को साक्षात्कार के लिए बण्डोवतु बुलाया जिसका परिणाम आज तक नहीं निकला है। यह एक विक्टिमिडिजेशन और अनफेयर लेबर प्रेक्टिस की परिभाषा में आता है इसलिए प्रार्थी सायर मल को सेवा मुक्त किया जाना अनुचित एवं अवैध है।

योग्य अधिकृत प्रतिनिधि बैंक ने बहस की कि 17-11-80 से 23-11-80 तक प्रार्थी सायर मल ने काम लिया उस बाबत कोई प्रमाण नहीं है। योग्य अधिकृत अप्रार्थी बैंक ने यह भी बहस की कि प्रार्थी के केस में बार्डपार्टिडेंट सेंटनमेन्ट 19-10-66 का क्लाज 20.7 लागू है और जब यह प्रमाणित है कि प्रार्थी को एक अस्थायी प्रकृति के काम पर लगाया गया था जो तीन माह के लिए लगाया गया था इसलिए बैंक द्वारा प्रार्थी को नोटिस देने का आवश्यकता नहीं थी। योग्य अधिकृत ने यह भी बहस की कि दिनांक 22-2-81 को प्रार्थी ने काम पर जाने और काम नहीं देना

कहा है जबकि यह एक स्वीकृत स.ध. है कि 22-2-81 रविवार था और काम पर जाने की आवश्यकता नहीं थी। योग्य अधिवक्ता बैंक ने यह भी बहम की कि अप्रार्थी बैंक की नहीं शाखा खोली गई थी और उसमें अस्थाई तौर पर चतुर्थ श्रेणी काँचारी रखे गए थे इसलिए प्रार्थी को 90 के दिन के लिए रखा गया था और इसलिए उसकी सेवा समाप्त अवधि नहीं थी। सायरमल प्रार्थी ने अपने शपथ पत्र में यह व्यक्त किया है कि उसने 17-11-80 से 21-2-81 तक चपरासी पद के पत्र पर स्टेट बैंक आफ पटियाला जयपुर शाखा में कार्य किया। यद्यपि इस तथ्य को श्री आई. पी. कुमार मैनेजर, जयपुर ब्रांच, स्टेट बैंक आफ पटियाला ने उसके शपथ पत्र के पैरा 8 में नकारा है कि 17-11-80 से 23-11-80 तक प्रार्थी का उनके बैंक में कार्य करना गलत प्रतीत होता है। अब यह देखना है कि इस संबंध में किसका बयान अधिक महत्वपूर्ण है। श्री आई. पी. कुमार की जिरह में यह स्पष्ट है कि श्री आई. पी. कुमार 1980 को हैदराबाद में पदस्थापित थे और वे जयपुर शाखा में फरवरी 1986 में आए हैं। इस प्रकार श्री सायरमल का दिनक 17-11-80 से 23-11-80 तक उनकी बैंक की शाखा में कार्य करना या नहीं करना के बावत श्री कुमार की व्यक्तिगत जानकारी नहीं है। इस संबंध में श्री सायरमल जिनने 12-11-80 से 21-2-81 तक बैंक में काम करना व्यक्त किया है उसके मुझे मुकाबिल बैंक की ओर से ऐसा कोई दस्तावेज भी पेश नहीं किया कि इस दौरान में श्री सायरमल ने कोई काम नहीं किया केवल जबानो स.ध. श्री कुमार की है जो सायरमल के शपथ पत्र पर बयान की निस्सन महत्वपूर्ण नहीं है। श्री कुमार ने रिकार्ड से यह माना है कि श्री सायरमल को नियुक्ति पत्र नहीं दिया गया है जिस प्रकार बैंक द्वारा नियुक्ति किया गया उसका नियुक्ति पत्र दिया जाना आवश्यक था। इसके अभाव में यह भी नियोजक पक्ष का कतन विचारणीय नहीं है कि श्री सायरमल को नियुक्ति केवल 90 दिन के लिए ही इस नियुक्ति पत्र के अभाव में अप्रार्थी बैंक के विरुद्ध एवार्ड इन्फ्लूएन्स भी लिया जाता है कि सायरमल की नियुक्ति महज एक सीमित अवधि के लिए ही थी। उनका यह कथन विश्वसनीय नहीं रहता है कि शास्त्री अर्वाड के पैरा 507 (1) में यह प्रावधान है कि :

Retrenchment of superfluous workman should be on the principle of "Last come first go" unless exceptional circumstances justify a departure from this principle.

दूसरे शास्त्री अर्वाड के पैरा 507 (2) में यह प्रावधान भी है :

In deciding who is the junior-most among the superfluous, the town should be taken as the unit in 'A' and 'B' Class banks and the State in 'C' class banks.

शास्त्री अर्वाड के पैरा संख्या 524 में यह प्रावधान है कि :

Temporary employees who are engaged for indefinite periods shall be entitled to one month's pay and allowances. Where, however, temporary employees are engaged for definite periods which have been mentioned in their appointment letters no compensation will be payable.

शास्त्री अर्वाड के पैरा संख्या 516 में कर्मकरों की सेवा पुस्तिका बनाने के संबंध में निम्न प्रावधान रखा गया है :

In the case of every employee except one who is engaged on a part-time basis, whether he is a temporary employee, a probationary or a permanent employee, a service book should be mentioned containing atleast the following particulars : name, date of birth, identification mark, entry into service as a temporary employee or probationer, confirmation or permanent appointment, pay on such occasion, promotion, pay on promotion, disciplinary action, if any, taken, any remark about his efficiency or character, made by his superiors, leave taken or absence from duty, officiating or acting appointment and deputation, if any, with dates wherever possible, resignation or retirement. When adverse remarks are made against an employee, a gist there-

of should be communicated to him in writing with the least possible delay.

सेवा सम्बन्धी प्रार्थना पत्र दिए जाने के सम्बन्ध में शास्त्री अर्वाड के पैरा संख्या 518 में यह प्रावधान है कि :

Every employee who leaves service or retires or is dismissed or discharged shall, without avoidable delay, be given a service certificate.

शास्त्री अर्वाड के पैरा संख्या 522 में सेवा समाप्ति के सम्बन्ध में संख्या 4 पर यह प्रावधान है कि :

(4) The service of any employee other than a permanent employee or probationer may be terminated and he may leave service, after 14 days' notice. If such an employee leaves service without giving such notice, he shall be liable for a week's pay (including all allowances).

(5) An order relating to discharge or termination of service shall be in writing and shall be signed by the Manager. A copy of such order shall be supplied to the employee concerned.

शास्त्री अर्वाड के पैरा 522(4) से यह स्पष्ट है कि ऐसे कर्मकार जो स्थाई नहीं हों या जो परीबीक्षा में नहीं हों उनकी सेवा समाप्ति की जाती है तो 14 दिन का नोटिस दिए जाने के पश्चात् ही वह सेवा समाप्ति की जा सकती है मौजूदा केस में अप्रार्थी बैंक के मैनेजर श्री आई. पी. कुमार ने जिरह में यह माना है कि सायरमल को नौकरी से निकालने समय कोई नोटिस नहीं दिया जबकि सायरमल स्थाई और परीबीक्षा में नहीं था। इस सूरज में भी उसे 14 दिन का नोटिस दिया जाता अनिवार्य था मगर ऐसा कोई नोटिस नहीं देने की इसकी सेवा समाप्ति करना शास्त्री अर्वाड के प्रावधानों के विरुद्ध था। वैसे भी न तो शास्त्री अर्वाड के पैरा संख्या 516 की अनुपालना में उसकी सेवा पुस्तिका बनाई गई और न ही उसे सेवा से निकालने का तुरन्त प्रमाणपत्र दिया। शास्त्री अर्वाड के पैरा संख्या 507 (1) के प्रावधान के अनुसार किसी की छटनी किए जाने में "पीछे आए पहले जाए" के सिद्धान्त की अनुपालना किया जाना आवश्यक है मगर सायरमल की छटनी में यह बखूबी प्रमाणित है कि इसको हटाए जाने के पश्चात् अप्रार्थी बैंक ने 2-3 दिन बाद ही सूरज प्रकाश को लगाया था। इससे यह विवक्षित है कि एक तो उनके बैंक में चपरासी सायरमल का हटाने के बाद भी स्थान रिक्त था गोया कि कार्य उपलब्ध था और कार्य उपलब्ध होते हुए सायरमल को बिना कारण हटाना अनुचित ही नहीं बल्कि अवैध था। फिर सायरमल को हटाने समय धारा 25 (जी) की रूढ़ को और इण्डियन डिस्म्यूट क्लेम 77 की कम्प्लेन नही की गई यानी श्री सायरमल की छटनी करने समय कोई बरीयत सूची भी प्रकाशित नहीं की गई। एल. एस. जे. 1983 के पृष्ठ 285 में इण्डियन डिस्म्यूट क्लेम 77 को आश्रय प्राप्त माना गया है और इस प्रकार सेवा मुक्त किया जाना अवैध बन जाता है। 1984 एच. आई. सी. 445 में यह विनिश्चित किया गया है :

"Section 25(f) and 25(g) are independent of each other. Failure to comply with either 25(f) of following section 25(g) retrenchment will be invalid."

इसलिए योग्य अधिवक्ता अर्वाधी का यह कथन स्वीकारणीय नहीं है कि यदि सायरमल कर्मकार ने 2-10 दिन एक कौन्सलर वर्क में पूरे नहीं किए है तो धारा 25 (जी) का फायदा वह नहीं उठा सकता। यदि धारा 25 (जी) का बायलेशन हो जाता हो तो भी उसकी सेवा समाप्ति अवैध बन जाती है। मौजूदा केस में सायरमल के साक्ष्य से यह बखूबी प्रमाणित है कि उसके पश्चात् उसकी जगह पर सूरज प्रकाश को लगाया गया जबकि उसे दोबारा लगाने के लिए नहीं बुलाया गया। श्री आई. पी. कुमार की जिरह से यह भी प्रमाणित है कि सायरमल के पश्चात् अक्षय कुमार,

प्रवीण कुमार, हेमराज, गणपत लाल, सूर्य नारायण, पन्ना लाल और गजराज मिह को चपरासी के स्थान पर लगाया गया। ऐसी सूरत में यही नतीजा निकलता है कि अध्यापी शाखा में चपरासी का पद कोई अध्यापी प्रकृति का नहीं था बल्कि वह चपरासी था। यह इस प्रकार का पद नहीं था जो अनिवार्यतः अध्यापी प्रकृति का हो या काम की अधिकता के कारण अध्यापी तौर पर किसी कानून आदमी को रख लिया गया हो। इस प्रकार एक के बाद दूसरे व्यक्ति अध्यापी प्रकृति की पोस्ट बना कर 3-3 माह तक लगातार कर्मकारों से काम लिया आता था। वास्तव में यह एक अनकेयर नेबर प्रेक्टिस था। बैंक की ओर से ऐसी कोई निश्चित प्रमाण पेश नहीं किया गया जिसमें कि यह सुनिश्चित हो सका कि बैंक में जो सायरमल को लगाया गया था चतुर्थ श्रेणी कर्मचारी के पद पर वह निवारणः अध्यापी पद हो सायरमल की माध्य से यह बखूबी प्रमाणित होता है कि उसने 12-11-80 से 21-2-83 तक लगभग 97 दिन कार्य किया जो 90 दिन से अधिक था। उसके नियुक्ति पत्र को प्रस्तुत नहीं किया गया। जिससे यह प्रमाणित होता कि उसकी नियुक्ति केवल एक सीमित अवधि के लिए थी। ऐसी सूरत में बार्ड पर्टीईड सैटलमेंट 19-10-66 का पैरा 20.9 लागू हो जाता है जिसमें कि यह प्रावधान है :

A temporary workman may also be appointed to fill a permanent vacancy provided that such temporary appointment shall not exceed a period of three months during which the bank shall make arrangement for filling up the vacancy permanently. If such a temporary workman is eventually selected for filling up the vacancy, the period of such temporary employment will be taken into account as part of his probationary period.

जब सायरमल की नियुक्ति तीन माह से आगे बढ़ गई और बैंक की ओर से उस पद को भरने के लिए 3 माह में कोई कार्यवाही नहीं की गई तो उस सूरत में अध्यापी नियोजन की अवधि भी बाह में उस कर्मकार की नियुक्त होने के बाव उसमें प्रोबेशनरी पीरियड में शुमार हो जाती है। सायरमल की माध्य से यह प्रमाणित हो चुका है कि उसे 1986 में इसी पद के लिए चण्डीगढ़ बुलाया गया और साक्षात्कार लिया गया मगर आज तक रिजल्ट जारी नहीं किया। यह भी एक डिक्टमाईजेशन की परिभाषा में आता है। इस प्रकार उक्त माध्य के विवेचन से शास्त्री अवाई के प्रावधानों के उल्लंघन में सायरमल को 14 दिन का नोटिस देना, सेवा समाप्त करना उस के पश्चात् सूरत प्रकाश को उसकी जगह रख लेना और उसे अवसर नहीं देना धारा 25 (एच) का उल्लंघन होना और तीन माह के लिए कर्मकारों को रख कर उन्हें हटा देना, से अनकेयर नेबर प्रेक्टिस का प्रयोग कर सायरमल को 1986 से लेकर अभी तक साक्षात्कार लेने के पश्चात् परिणाम नहीं निकालने से उसे डिक्टमाईजेशन कथना प्रमाणित पाया जाता है। इसके अतिरिक्त सायरमल को संशामुक्त करने समय 25 (जी) सप्लिमेंट्री औद्योगिक विवाद नियम 77 की अनुपालना में कोई लिस्ट नहीं बनाने से सायरमल की सेवामुक्ति रिट्रेंचमेंट की परिभाषा में आती है और यह रिट्रेंचमेंट अनुचित एवं अवैध पाया गया है। ऐसी सूरत में श्री सायरमल की सेवा समाप्ति दिनांक 22-2-81 से अपनी सेवामुक्ति के पूर्ववत पद पर उसी नेबर के पद पर बहाल किए जाने योग्य है।

अतः आज्ञा है कि नियोजक स्टेट बैंक ऑफ पटियाणा, नई दिल्ली के जयपुर ब्रांच मैनेजर द्वारा श्री सायरमल से शास्त्री अवाई की सेवा 21-2-83 से समाप्त करना अनुचित एवं अवैध था और श्री सायरमल दिनांक 21-2-81 से उसके सेवा समाप्ति से पूर्व के पद पर बहाल होने योग्य है और इस प्रकार सेवा में बहाल होने के बाद में जो भी देय लाभ उसमें उत्पन्न होने हों, वह सभी पाने का अधिकारी है।

प्रताप सिंह यादव, स्यायोजन

[सं. एन-12012/112/83-डी. II (ए)]

एम. सी. शर्मा, हेल्थ अधिकारी

नई दिल्ली, 15 नवम्बर, 1989

का. आ. 3019 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुच्छेद में, केन्द्रीय सरकार पारलुम सर्विस सेंटर, किशंगर, के प्रबन्धन के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंच को प्रकाशित करना है, जो केन्द्रीय सरकार को 7-11-89 को प्राप्त हुआ था।

New Delhi, the 15th November, 1989

S.O. 3049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Powerloom Service Centre, Kishangarh and their workmen, which was received by the Central Government on 7-11-1989.

ANNEXURE

BFFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. No. 10/88

In the matter of dispute between :

Shri Hanuman Pershad S/o Shri Chouthu, Near Purani Mill, Harizan Basti, Madanganj-Kishangarh (Ajmer-Rajasthan).

Versus

The Officer Incharge, Powerloom Service Centre, Industrial Area, Kishangarh, Ajmer-Rajasthan).

APPEARANCES :

Shri S. S. Gupta—for the Management.

Miss Ritu Bhalla—for the workman

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/191/86-D.II (B) dated 31-12-87 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Officer Incharge, Powerloom Service Centre, Kishangarh (Ajmer) in terminating the service of Shri Hanuman Pershad with effect from 21-2-1986 is legal and justified? If not, to what relief is the concerned workman entitled to?"

2. Some of the undisputed facts are that Hanuman Pershad workman was employed as a Safaiwala in the Powerloom Service Centre Kishan Garh w.e.f. 31-8-81 and his services were terminated w.e.f. 21-2-1986 without any notice charge-sheet or enquiry or payment of wages in lieu of notice or any retrenchment compensation.

3. The case of the workman is that the termination of his service was mala fide done by Shri G. P. Sinha Officer Incharge of the Management who wanted to employ somebody also in the place of the workman who would be prepared to work at his residence. He has also alleged that his services were terminated on oral orders without passing any written order and he was also not paid his wages for the months of January and February, 1986. It is further case of the workman that his services were terminated in violation of the provisions of section 25-F of the I. D. Act and consequently the order of termination is void ab initio and he may be reinstated with continuity of service and with full back wages.

4. The Management has raised certain preliminary objections that the Powerloom Service Centre is not an 'Industry'

and it is only a Central Government Office and consequently the claimant is not a workman and the reference is bad and this Tribunal has got no jurisdiction. On merits, it has been submitted that Shri Hanuman Pershad was employed as part time sweeper on daily wages to be paid out of the contingency amount. His performance and attendance were found to be unsatisfactory and inspite of several warnings he did not show much improvement in attendance and work and the officer Incharge after consulting the Director Regional Office of the Textile Commissioner Ahmedabad dispensed with his services. It has further been stated that the workman was most unsatisfactory in his performance and attendance and he was habitual in avoiding the orders and in not doing the work and no officer was happy with his work and performance. The allegations of malafide against Shri G. P. Sinha were denied as totally wrong and baseless. It has further been submitted that in case of daily wages worker paid out of the contingency fund it was prerogative of the officer Incharge to engage anybody and to get the work done. As regards non-payment of wages for the months of January, 1986 and February, 1986 it was submitted that the workman was asked vide letter dated 16-12-86 to submit advance receipt for arranging payment but the same was not submitted by him.

5. First of all the preliminary objections of the Management are taken up. It has been stated by MW-I Shri A. K. Srivastava Assistant Director, Officer Incharge Powerloom Service Centre that the Powerloom Service Centre provides three months training course in Powerloom Weaving and issues certificates and that any small scale industry can take help from the Centre regarding work of their Unit and testing of samples which they carry out free of cost. These functions of the Powerloom Service Centre cannot be treated as covering functions of the State and these functions legitimately constitute the activities of 'Industry' and meet the triple test of 'Industry' laid down by the Hon'ble Supreme Court in the authority Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and other AIR 1978 Supreme Court 548. As has been observed by the Hon'ble Supreme Court in the above authority, absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector. The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations. An organisation does not cease to be an 'Industry' because of philanthropy animating the undertaking. Hence I have no hesitation in holding that the Powerloom Service Centre Kishangarh, Ajmer is an 'Industry' and the claimant is a workman employed in the said Industry. Consequently the reference is quite in order and this Tribunal has the jurisdiction to go into the dispute.

6. It has further been contended by the Management that the claimant is not a workman because he was a part time worker being paid out of contingencies. In the authority Govind Bhai Kanabhai Maru Vs. N. K. Desai 1988 Lab. I.C. 505 Gujarat High Court it was held as under :

"(B)—Industrial Disputes Act (14 of 1947) Sch. 2, Item 3—Termination of Service—Opportunity of hearing—Part-time worker in service for 13 years—His salary being paid from contingency fund—He is not employed on contingency job—Termination of his service—Opportunity of being heard ought to be given to him.

If a person has been in service for a decade and more, surely he cannot be regarded as an ad hoc appointee or a person employed on a contingency job. The fact that the wages are paid from the contingency funds or any other funds, has no relevance while considering the nature of employment lasting for years. It is open to the employer to pay wages from whatever funds which may be available to him. That cannot determine the nature of employment whether it is contingent or permanent or semi-permanent. Other factors are also important in finding out the nature of employment.

Hence even a part time employee who has worked in that capacity for more than 13 years is entitled to be given an opportunity of being heard. In absence of such opportunity the order terminating his services would be illegal".

It is, therefore, manifest that the payment of wages from contingency fund as has been contended by the Management is not at all material while considering the nature of employment of the workman. Otherwise it is admitted by the Management itself that the workman remained employed with it for the long period from 31-8-81 to 21-2-86. Hence the above authority is fully applicable to the facts of the present case and it is held that even if the claimant is taken to have been employed on part time basis, he would be covered by the definition of workman.

7. However, the Management has even failed to prove that the claimant was employed on a part time basis. The sequence of events which led to the appointment of the workman are as follows. First of all a letter dated 11-8-81 was issued to the workman in Hindi the termination of which is as under :

"Ref : PS/SC/KG/AD/6/309 dt. 11-8-81

Sir,

There is a temporary post of Sweeper is lying vacant in this office on daily rate @ Rs. 7 per working day i.e. Rs. 175 per month and the working hours will be from 9 A.M. to 4 P.M.

If you are interested to work in the aforesaid post, so come to this office on 17-9-81 for interview.

Yours faithfully,

Sd/-

(R. N. Khanna)

Shri Hanuman Prasad Jajhot s/o
Shri Chouthu Ji,
c/o Ratan Ji Harizan,
Purani Mill, Harizan Basti,
Kishangarh, Distt. Ajmer."

Then another letter dated 19-8-81 in Hindi was issued which on translation would read as under :

"No. P.L./S.C./AD/335 dated 19-8-1981.

Shri Hanuman c/o Chouthuji,
c/o Ratanji Harijan, Purani Mill,
Harizan Basti, Kishangarh,
Dist. Ajmer.

Sir,

In continuation of this office letter dated 11-8-81 I am to say that if you are interested on daily rates on office working days @ Rs. 7 per day from 9 AM to 5 PM, so you may come to this office on 22-8-81 at 11 AM for interview.

The post of the Sweeper is temporary and the service can be terminated at any time being unsatisfactory of work. The card is returned herewith which is necessary for presence.

Yours

(R. N. KHANNA)

Assistant Director."

Encl. One card.

Then followed the letter of appointment dated 26-8-81 in Hindi which is translated below :

"PS/SC/AD/6/346 dated 26-8-89

OFFICE ORDER

Shri Hanuman Prasad s/o Shri Chouthuji is hereby informed that he has been selected in the interview for the post of Sweeper on daily rate @ Rs. 7 per day i.e. Rs. 175 per month & the post is temporary.

So he may join his duty in the office upto 1-9-81 otherwise the aforesaid order may kindly be treated as withdrawn.

Sd/- (R. N. KHANNA)

Shri Hanuman Prasad s/o
Shri Chouthuji, c/o
Shri Rattanji Harizan.
Purani Mill, Harizan Basti,
Kishanganr, Ajmer.

It is to be noted that in none of these letters it was mentioned that the post is a part time one. In fact in the letters dated 11-8-81 and 19-8-81 it has been mentioned that the hours of work will be from 9 AM to 4 PM. In other words the incumbent of the post had to work for 7 hours per day and that cannot be taken as part time work. It has clearly been mentioned in these letters that the workman is being employed as a temporary hand. Now the temporary workers have not been excluded from the definition of workmen given in Section 2(s) of the I.D. Act. In the authority *Hutchish Versus Karnataka State Road Transport Corporation* 1983 (1)LLJ High Court of Judicature Karnataka page 30 it was held as under :

"Held : The definition of the word 'workman' given in S.2(s), without causing the least violence to the language used, is susceptible of only one meaning that a very person employed in an industry, irrespective of his status-temporary, permanent or probationary-would be a workman. Once it is established that the corporation is an Industry, as defined in S. 2(i), the essential condition of a person being a workman within the term of the definition is that he should be employed to do work in that industry, that there should be, in other words, an employment of him by the employer and that there should be relationship between the employer and him, as between an employer and an employee or master and servant. Therefore, it is difficult to accept the contention of the Corporation that the employees, who were still probationers, were not workmen, as defined in S. 2(s).

Once the above conclusion is reached, the other con-
nate questions also stand answered. The inevitable
answer would be that the discharge of the employees
does amount to retrenchment, notwithstanding the
fact that they were only probationers. That being
the position, as every one of the employees had put
in continuous service of one year or more: as defined
in S. 25B, before discharging them from service the
condition precedent prescribed in S. 25F should have
been complied with. As admittedly these requirements
were not complied with their retrenchment is not
valid in law".

Similarly in the authority *The Chief Engineer (Irrigation) Chennai. Madras-5 Versus N. Matesan* 1979 11 LLJ page 446 Madras High Court it was held as under :

"Industrial Disputes Act, 1947, S.2(s) and 25-F Termination of services of a temporary workman-Such workman is entitled to retrenchment compensation in addition to a month's notice or one month's wages in lieu of notice.

Held, that even a temporary workman is a "workman" within the meaning of S. 2(s) of the Industrial Disputes Act is now well established.

The Act does not appear to make a distinction, especially S. 25F, between a permanent workman and a temporary workman for purposes of retrenchment compensation. That being the case the order of the learned Judge awarding a temporary workman retrenchment compensation in addition to a month's notice or one month's wages in lieu of notice is correct."

Similarly in *L. Robert D'Souza Versus Executive Engineer, Southern Railway* and another 1982 (i) S.C.C. 645 it was held as under :

"Labour and Services-Industrial Disputes Act, 1947 (14 of 1947) Sections 2(o) and 25-F-Termination 3332 GI/89-5.

of service for unauthorised absence from duty amounts to 'retrenchment'. Even a casual or seasonal workman who rendered continuous service for one year or more cannot be retrenched on such ground without complying with the requisites of Section 25-F."

9. In view of the above discussion the termination of the services of Shri Hanuman Pershad is held to be in violation of the provisions of section 25-F of the I.D. Act and consequently void ab initio. Hence it is directed that the workman shall be reinstated with continuity of service and with full back wages. This reference stands disposed of accordingly.

G. S. KALRA, Presiding Officer
[No. L-42012/191/86-D.II(B)(Pt.)]

का. भा. 3050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं केंद्रज फैक्ट्री, जबलपुर के प्रबन्धन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-89 को प्राप्त हुआ था।

S.O. 3050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gun Carriage Factory, Jabalpur and their workmen, which was received by the Central Government on 7-11-89.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.).

Case No. CGIT/LC(R)(16)/1987

PARTIES :

Employers in relation to the management of Gun Carriage Factory, Jabalpur and their workman Shri Yogesh Kumar Pandey S/o Shri Ram Sachan Pandey, H. No. 12, Behind Ranjhi Girls School, Ranjhi, Jabalpur (M.P.).

APPEARANCES :

For Workman.—Shri C. L. Kotecha, Advocate

For Management.—Shri A. K. Chaube, Advocate

INDUSTRY : Ordnance Factory. DISTRICT : Jabalpur (M.P.).

AWARD

Dated, October 26th, 1989

The Government of India, Ministry of Labour, vide its Order No. L-12012/8185-D.II(B) dated 3-2-1987, referred the following dispute to this Tribunal, for adjudication :—

"Whether the action of management of Gun Carriage Factory, Jabalpur (M.P.) in dismissing Shri Yogesh Kumar Pandey from service w.e.f. 29-7-80 on the basis of the judgement passed by the High Court of Madhya Pradesh is legal. If not, to what relief is the workman concerned entitled ?"

2. Undisputed facts of the case are that the Party No. 1 (hereinafter referred to as Workman) was appointed under the Party No. 2 (hereinafter called the management) as Technical Wireman Grade I in the year 1962. He was then promoted as Electrical Fitter Gr. II and Electrical Fitter Gr. I, Supervisor Gr. B and Supervisor Gr. A. He was further promoted to the post of Chageman Gr. II. It is not disputed that he had a good service record. He was

convicted in Criminal Appeal No. 203/76 by the High Court of Madhya Pradesh at Jabalpur under Sec. 419, 420 of the Indian Penal Code vide its judgement dated 29-4-80 and was sentenced to rigorous imprisonment for a period of six months on each count. Both these sentences were to run concurrent. He was thereafter given show cause notice. His reply was obtained and was dismissed vide order of the General Manager dated 29-7-1980 from the date of the issue of the order in the light of his conviction aforesaid.

3. The workman states in brief that in the year 1970 or so one Shri J. C. Awasthy who was the brother-in-law (cousin) of the workman residing at Kanpur came to Jabalpur and at that time he received certain money orders. The workman was asked by the said Shri J. C. Awasthy to identify him without looking at the addresses to whom the money orders were addressed. In good faith the workman identified Shri J. C. Awasthy to the Postman. Later on it was revealed that the said money orders were actually sent by Shri J. C. Awasthy from Kanpur in the name of someone else and were received by him at Jabalpur. Workman did not know all these facts and was made victim of the trap for simply identifying the said Shri J. C. Awasthy. Later on the said Shri J. C. Awasthy along with the workman were prosecuted for the offences punishable under Sec. 419/109, 420/109 and 468/109 of the Indian Penal Code. During the course of the prosecution Shri J. C. Awasthy died and later on vide judgement delivered by the Special Judge on 16-9-1979 at Jabalpur the workman was acquitted honourably for having not committed any offence.

4. The State Government, however, preferred an appeal against the judgement of acquittal and vide judgement dated 29-4-1980 referred to above the High Court convicted the workman. In consequence of the conviction the management passed an order of dismissal from 29-7-1980. Workman preferred an appeal before the Director General of Ordnance Factories and thereafter sent mercy appeal to Prime Minister of India and the President of India and other higher authorities but to no effect.

5. In fact the alleged identification of Shri J. C. Awasthy by the workman concerned was in good faith and the order of dismissal is too severe a punishment. Workman accordingly prayed for setting aside the order of dismissal with a direction to reinstate the workman with full back wages.

6. The case of the management is that the workman was convicted by the High Court on grave charges and as such the order of dismissal is justified. That apart, because the Indian Ordnance Factories are engaged in performing sovereign functions of the Central Government as they are engaged in manufacture of arms and ammunitions for defence forces this Court has no jurisdiction to try this case in view of the Hon'ble Supreme Court judgement in case of Bangalore Water Supply & Sewage Board Vs. A. J. Rajappa (AIR 1978 SC p. 969). The claim of the workman is, therefore, liable to be dismissed.

7. So far the question of jurisdiction of this Court is concerned as relied upon by the management on the case of Bangalore Water Supply & Sewage Board Vs. A. J. Rajappa (AIR 1978 SC p. 969) it would be sufficient to refer to para 172 of the judgement (at page 972-973) which runs as under :—

"172. One of the exceptions carved out by the Court is in favour of activities undertaken by the Government in the exercise of its inalienable functions under the Constitution, call it regal, sovereign or by any other name. I see no justification for excepting these categories of public utility activities from the definition of 'industry'. If it be true that one must have regard to the nature of the activity and not to who engages in it, it seems to me beside the point to enquire whether the activity is undertaken by the State, and further, if so, whether it is undertaken in fulfilment of the State's constitutional obligations or in discharge of its constitutional functions. In fact, to concede

the benefit of an exception to the State's activities which are in the nature of sovereign functions is really to have regard not so much to the nature of the activity as to the consideration who engages in that activity; for, sovereign functions can only be discharged by the State and not by a private person. If the State's inalienable functions are excepted from the sweep of the definition contained in Section 2(j), one shall have unwittingly rejected the fundamental test that it is the nature of activity which ought to determine whether the activity is an industry. Indeed, in this respect, it should make no difference whether, on the one hand, an activity is undertaken by a corporate body in the discharge of its statutory functions or, on the other, by the State itself in the exercise of its inalienable functions. If the water supply and sewerage schemes or fire fighting establishments run by a Municipality can be industries, so ought to be the manufacture of coins and currency, arms and ammunition and the winning of oil and uranium. The fact that these latter kinds of activities are, or can only be, undertaken by the State does not furnish any answer to the question whether these activities are industries. When undertaken by a private individual they are industries. Therefore, when undertaken by the State, they are industries. The nature of the activity is the determining factor and that does not change according to who undertakes it. Items 8, 11, 12, 17 and 18 of the First Schedule read with section 2(n) (vi) of the Industrial Disputes Act render support to this view. These provisions which were described in Hospital Mazdoor Sabha (AIR 1960 SC 610) as 'very significant' at least show that, conceivably, a Defence Establishment, a Mint or a Security Press can be an industry even though these activities are, ought to be and can only be undertaken by the State in the discharge of its constitutional obligations or functions. The State does not trade when it prints a currency note or strikes a coin. And yet, considering the nature of the activity, it is engaged in an industry when it does so."

8. From the above discussion it could be very clearly held that the management is an 'industry' under the Industrial Disputes Act. This contention further finds support from the order dated 21st March, 1984 passed by the High Court of Madhya Pradesh at Jabalpur in M. P. No. 1969/83 Rajendra Naidu Vs. Union of India and two others. Thus I have no doubt in my mind to hold that the workman was employed in the industry. No other point was raised on the question of jurisdiction of this Court. I therefore hold that the party no. 1 is a 'workman' in an industry and Industrial Disputes Act applies to this case.

9. In view of the verdict of the High Court, it was justiciable on the part of the management not to go behind the judgement which is undisputedly final to probe into the fact whether the workman was innocent and he bonafidely identified Shri J. C. Awasthy as averred by the workman.

10. Obviously, the workman was convicted for grave offences as under Sections 419 and 420 of the Indian Penal Code. Thus his dismissal by the management was justified. The workman should not have been given a lesser punishment than what was awarded to him under Rule 11(ix) of the Central Civil Services (Classification, Control and Appeal Rules) 1965.

11. No other point was raised to assail the order of dismissal of the workman, Shri Yogesh Kumar Pandey. Merely because he had a good previous record he does not become entitled to reinstatement with back wages as prayed for.

12. In the result an award is passed to the effect that the action of management of Gun Carriage Factory, Jabalpur (M.P.) in dismissing Shri Yogesh Kumar Pandey from

service w.e.f. 29-7-80 on the basis of the judgement passed by the High Court of Madhya Pradesh is legal. Workman is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer.
[No. L-13012/85-D.II(B)(PO)]

का. आ. 3051—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल हाइड्रो इलेक्ट्रिक पावर कारपोरेशन लिमिटेड, अलवर के प्रबंधन के सम्यक् नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-11-89 को प्राप्त हुआ था।

S.O. 3051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Hydro Electric Power Corporation Ltd., Alwar and their workmen, which was received by the Central Government on 7-11-1989.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, NEW DELHI

I. D. No. 65/87.

In the matter of dispute between :

Shri Chander Ballabh Deorari s/o. Late M. N. Deorari,
H-67/A Near J&K Block, Garhawali Mohalla Ixmi
Nagar, Delhi-110092.

VERSUS

The Assistant Manager, National Hydro Electric Power
Corporation Limited, Pumped Storage Scheme Ma-
dhogarh, P.O. Akabarpur, Distt. Alwar.

APPEARANCES :

Shri B. K. Aggarwal for the workman.

Shri V. P. Dewan for the Manager.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/125/86-D. II (B), dated 8th July, 1987 has referred the following industrial Dispute to this Tribunal for adjudication :

"Whether the termination of Shri Chandra Ballabh Deorari by the management of National Hydro Electric Power Corporation Limited, Alwar w.e.f. 1-4-86 is legally in order and justified? If not, to what relief and from what date, the workman concerned is entitled?"

2. There is not much dispute on the facts of this case. Workman Chander Ballabh Deorari was initially appointed on daily wage basis as casual worker at Tanakpur Project of the National Hydro Electric Power Corporation Ltd., District Nainital U.P. where he worked from 1-12-1984 to 28-2-1985. Later on the workman was re-engaged at the Bara Pump Store Scheme Alwar on 16-5-1985 where he worked till 31-3-1986. No notice nor any charge sheet were served upon the workman nor any enquiry held against him nor were any wages in lieu of notice nor any retrenchment compensation paid to him.

3. The case of the workman is that the Management has several other projects and it had diverted the staff engaged on daily wages on the completion of one project to another project. The Management could have taken him on any of the 10 projects in its hand but it malafidely did not take him back on duty and thus terminated his services which was in

violation of section 25-F of the I. D. Act. Hence the workman has prayed that he may be reinstated in any of the other projects of the Management with all benefits such as bonus, yearly increments etc. by treating him on duty w.e.f. 1-4-1986.

4. The Management raised the preliminary objection that the Central Government is not an appropriate Government in this case and the appropriate Government in this case is State Government in terms of section 2(a)(ii) of the Industrial Disputes Act 1947 (hereinafter referred to as the Act) and consequently the present reference is bad and this Tribunal has got no jurisdiction. On merits it was submitted that after his first period of employment from 1-12-1984 to 28-2-1985 the workman left his employment on his own accord. It denied that daily wage workers had been diverted from one project on completion to another projects of the Management. It was further submitted that the workman was employed in Alwar on daily rate basis and the project was not found feasible for construction of Hydro project on various considerations and therefore on its closure no work was available for daily rated workmen. It denied that the workman was not taken on duty malafidely. It further denied that the services of the workman were terminated in contravention of section 25-F of the Act and submitted that the provisions of the said Section are not applicable in this case.

5. First of all the preliminary objection of the Management is taken up. This objection of the Management is fallacious and without any merit. There is no dispute that the National Hydro Electric Power Corporation Ltd. is an enterprise of the Government of India. The letter of authority dated 18-3-1983 issued by the Management on its letter head clearly shows this corporation to be a Government of India Enterprise. Section 2(a)(i) clearly stipulates the appropriate Government in relation to any industrial dispute concerning any 'industry' carried on by or under the authority of the Central Government as the Central Government and section 2(a)(ii) stipulates that in relation to any other Industrial Dispute the appropriate Government will be the State Government. As has been noted earlier the respondent corporation is a Central Government Enterprise and, therefore, the Central Government is the appropriate Government in any Industrial Dispute pertaining to respondent corporation. Hence the reference is valid and this Tribunal has the jurisdiction.

6. The Management itself admits that the workman remained employed continuously for the period 16-5-1985 to 31-3-86 which works out 320 days and thus he had completed one year continuous service as defined in section 25-B of the Act and sailed into the protection of section 25-F of the Act. Even if there was no work left and the project was discontinued, the Management was under obligation to comply with the mandatory provisions of Section 25-F of the Act. As the Management has admittedly not complied with the provisions of section 25-F of the Act the termination of the services of the workman which amounts to retrenchment, is void ab-initio. However, since the project on which the workman was employed has been discontinued, the question of reinstatement of the workman does not arise, and he is only entitled to wages in lieu of notice and retrenchment compensation. The workman has not been able to substantiate his claim that the Management had been transferring daily rated workman on one project on its completion to its other Project by any cogent evidence. On the other hand, the workman himself has admitted in his cross-examination as WW-1 that there were other persons working on muster roll but he did not know whether the services of those other muster roll employees were also terminated and he could not also tell the name of any muster roll employees who were transferred. There is no evidence on record to show as to what were the wages being drawn by the workman at the time of his termination. Therefore, the wages in lieu of notice and the retrenchment compensation including the cost of these proceedings are quantified to a lumpsum of Rs. 3000/- It is directed that the said sum of Rs. 3000/- shall be paid to the workman within one month of the enforcement of the award failing which it shall carry future interest @ 15% till its actual payment. This reference stands disposed of accordingly.

G. S. KALRA, Presiding Officer.
[No. L-42012/125/86-D. II (B) (Pr)]

का. मा. 3052—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार श्रिकल फैक्ट्री, जबलपुर के प्रबंधक के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक आधिकारण, जबलपुर के पंचाट का प्रकाशित करता है, जो केन्द्रीय सरकार को 8-11-89 को प्राप्त हुआ था।

S.O. 3052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Vehicle Factory, Jabalpur and their workmen, which was received by the Central Government on 8-11-89.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)/(20)/1987

PARTIES:

Employers in relation to the management of Vehicle Factory, Jabalpur (M.P.) and their workman, Shri Lalji Yadav S/o Shri Ramroop Yadav, Perfect Potteries Works, Narmada Road, Jabalpur (M.P.).

APPEARANCES:

For Workman—Shri Rajendra Menon, Advocate.

For Management—Shri A. K. Chaube, Advocate.

INDUSTRY : Vehicle Factory DISTRICT : Jabalpur
(M.P.)

AWARD

Dated October 30, 1989

This is a reference made by the Government of India, Ministry of Labour, under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 for adjudication of the following dispute, vide Notification No. 32/11/86-Con.I/D.II(B) dated 18-2-1987:—

“Whether the action of the management of Vehicle Factory, Jabalpur in terminating services of Shri Lalji Yadav, S/o Shri Ramroop Yadav, Junior Examiner, w.e.f. 20-2-84 is legal and justified? If not, to what relief the workman concerned is entitled?”

2. Undisputed facts of the case are that the workman was appointed as a Trade Apprentice on 24-3-1980 and completed the full term course of Apprentice under Apprentice Act, 1961. Thereafter the workman was employed as a Junior Examiner on 24-3-1983 at Vehicle Factory, Jabalpur. It is also not disputed that the services of the workman were terminated with effect from 20-2-1984 on the ground “No longer required”. It has not been challenged that from 24-3-1983 till the date of termination the workman had continued in service for more than 240 days. It is also not disputed that the workman submitted an appeal to the Chairman, Ordnance Factories Board, Calcutta on 1-10-1985 but the same was rejected vide order dated 18-3-1986. It is also an admitted fact that a letter dated 15-2-1984 was issued to the workman to appear in N.C.T.V.T. Examinations to be held in April, 1984. The workman appeared in the said examination and passed the test.

3. Workman's case in brief is that his work was satisfactory and he was given a Certificate on 8-7-1983 showing his training as very good. On completion of training period of six months, the name of the workmen, Shri Gaya Prasad and Shri Anil Kumar Tripathi was sent for closure

of probationary period and it was further certified that the services of the workman was satisfactory. He should, therefore, deem to have been confirmed. But the said order was not issued. Whenever the workman was absent he had given an application and with permission only he took leave. In any case, if this was a ground of his termination in service he should have been given an opportunity to explain it. The terms and conditions referred to in his appointment letter dated 23-3-1983, clauses 2, 3 and 16 are ultra vires to the Constitution of India being contrary, unjust and unfair. His termination of services amounts to retrenchment as defined in Sec. 2(oo) of the Industrial Disputes Act, 1947 and the termination of his services having taken place without complying the provisions of Section 25F of the I.D. Act, the order of termination is void ab initio. He is, therefore, entitled to reinstatement with full back wages and other consequential benefits.

4. According to the management, the workman did not pass the N.C.T.V.T. Examinations within a period of six months from the date of absorption/appointment as per terms of appointment and as such his services were liable to be terminated and were accordingly terminated. Not only that but his performance and behaviour were unsatisfactory. The following table will show that he was missing from the place of work from 0900 hours to 1600 hours on 9-12-1983 and did not report back for duty after recess/lunch time on the following dates:—

13-10-83	2-11-83
25-10-83	12-11-83
29-10-83	22-11-83
31-10-83	28-11-83

His wilful absence exhibited lack of discipline and interest in the job. This was considered detrimental to public interest and an order of termination simpliciter was passed against him because he did not show any improvement on his job. Hence it is not correct to say that his services were terminated all of a sudden. Giving more chances to pass N.C.T.V.T. Examinations is a matter of discretion to be exercised only by the employer and is based on merits of the employee and aptitude for his work. The workman having not shown any improvement in his work and there being deterioration and lack of interest amounting to total negligence of his duty he did not deserve any discretion and it was justly denied to him.

5. As per Ministry of Law and Justice and C-A (Deptt. of Legal Affairs) U.O. No. 12356/77/Adv/(A) dated 27-5-1977, the Ordnance Factory Organisation is not covered under Industrial Disputes Act, 1947 and the same falls outside Section 2(j) and Section 25F of the I.D. Act due to sovereign nature of action. Secondly, if Section 2(j) and Section 25F are to be invoked in this case, the workman having not completed more than a year of continuous service it cannot be said that in the case provisions of Section 25F (a), (b) and (c) applies.

6. Cases of employees of Ordnance Factories are dealt with under the C.C.S. (C.C.A.) Rules, 1965 framed under the powers delegated to the Central Government vide Articles 311 and 312 of the Constitution of India. Disciplinary case in question was dealt with under the C.C.S. (C.C.A.) Rules, 1965 and was not under the Industrial Employment (Standing Orders) Act. A reference to Section 13B of the Industrial Employment (Standing Orders) Act will reveal that nothing in that Act shall apply to the industrial establishments and in so far as the workman employed therein are persons to whom Fundamental Rules and Supplementary Rules, Civil Services (Classification, Control & Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations, Civilians in Defence Service (Classification, Control & Appeal) Rules or the Indian Railways Establishment Code or any other Rules or Regulations that may be notified in this behalf by the appropriate Government in the official Gazette, apply. It is, therefore, clear that the Standing Orders applicable to general industries are not applicable to the employees of the Ordnance Factories as their services are governed by Civil Service Regulations and C.C.S. (C.C.A.) Rules, 1965

etc. The workman is, therefore, not entitled to any relief which is liable to be rejected.

7. Various Rules and Regulations have been quoted to show that the Industrial Disputes Act, 1947 does not apply in the instant case, but the case of Bangalore Water Supply and Sewerage Board vs. A. Rajappa (AIR 1978 SC 969) at page 975 has set the matter at rest and the Vehicle Factories are covered under the definition of 'industry' as defined in Sec. 2(j) of the Industrial Disputes Act, 1947. The relevant portion of judgment in case of Water Supply and Sewerage Board (supra) is as under :—

"1/2. One of the exceptions carved out by the Court is in favour of activities undertaken by the Government in the exercise of its inalienable functions under the Constitution, call it legal, sovereign or any other name. I see no justification for excluding these categories of public utility activities from the definition of 'industry'..... in the water supply and sewerage schemes or fire fighting establishments run by a Municipality can be industries, so ought to be the manufacture of coins and currency, arms and ammunition and the winning of oil and uranium. The fact that these latter kinds of activities are, or can only be, undertaken by the State does not furnish any answer to the question whether these activities are industries. When undertaken by a private individual they are industries. Therefore, when undertaken by the State, they are industries. The nature of the activity is the determining factor and that does not change according to who undertakes it. Items 8, 11, 12, 17 and 18 of the First Schedule read with section 2(n) (vi) of the Industrial Disputes Act, render support to this view. These provisions which were described in Hospital Mazdoor Sabha (AIR 1960 SC 610) as 'very significant' at least show that, conceivably, a Defence Establishments, a Mint or a Security Press can be an industry even though these activities are, ought to be and can only be undertaken by the State in the discharge of its constitutional obligations or functions. The State does not trade when it prints a currency note or strikes a coin. And yet, considering the nature of the activity, it is engaged in an industry when it does so."

The above judgment of the Hon'ble Supreme Court has further been explained by the High Court of Madhya Pradesh at Jabalpur in M. P. No. 1969/83 Rajendra Naidu Vs. Union of India and two others. Thus it is needless to go into the details of the Rules and Regulations quoted by the management as detailed above in its statement of claim. There is no dispute that Shri Lalji Yadav is a workman.

8. That being so, we proceed to examine as to whether the provisions of Section 2(oo) and Section 25-F of the I. D. Act apply to the facts of this case ?

9. The workman has examined himself in support of his case. Ex. M/1 is the copy of appointment letter of the applicant. Ex. M/2 is the certificate of willingness to serve as a Junior Examiner of Industrial Establishment accepting the terms as laid down in the appointment letter Ex. M/1. Ex. W/1 is the photo copy of this termination order. Ex. W/2 is photo copy of his representation. Ex. W/3 is photo copy of his order of rejection of the representation. Ex. W/4 is the photo copy of the order of rejection of his appeal. Ex. W/5 is also photo copy of permission letter dated 15-2-1984 according to which the workman was permitted to appear in All India Trade Test to be held in April 1984. Ex. W/6 is the photo copy of National Apprenticeship Certificate of the said workman.

10. As I have already pointed out that it is not disputed that the workman had completed one year of continuous service as defined under Section 25-F and clarified under Section 25-FF of the I. D. Act, 1947 for he had completed

continuous service for more than 240 days. In this regard, para 3 of the statement of claim of the workman as also its reply para 3 is note worthy. The statement of claim made by the management in para 3 does not specifically deny that the workman had completed 240 days of continuous service. This fact can further be ascertained from para 16 of the rejoinder, relevant part of which runs as under :—

"Secondly if Section 2(j) and Section 25(F) are to be invoked in this case, the applicant has not completed more than a year of continuous service."

11. Thus from the pleading themselves it is very clear that the workman had completed 240 days of continuous service. That apart, he had joined on 24-3-1983 and was terminated with effect from 20-2-1984. There is no evidence to show that the period of alleged absence was taken as break in service or not included in the continuous service. Thus it is established that the workman had completed 240 days of continuous service which follows that he had completed one year service and therefore provisions of Section 25-F and Section 2(j) apply to the facts of this case. The provisions of Section 25-J very clearly lays down that the provisions of Chapter shall have effect notwithstanding anything in consistent therewith contained in any other law including Standing Orders made under the Industrial Employment (Standing Orders) Act, 1946.

12. It is not the case of the employer that any departmental enquiry was held against the workman for his unsatisfactory performance, behaviour and absence. Obviously, the services of the workman were not terminated under any of the exceptions provided in Sec. 2(oo) of the I.D. Act. Thus the termination of the services of the workman amounted to retrenchment as defined in Sec. 2(oo) of the I.D. Act. Once the conclusion is reached that retrenchment as defined in Sec. 2(oo) of the I.D. Act covers every case of termination of services except those embodied under the definition, discharge from employment or termination of a probationer would also amount to retrenchment. Thus even accepting that the workman was a probationer the termination of service would amount to retrenchment under the law. (Management of Karnatak State Road Transport Corporation, Bangalore Vs. M. Boraiah and another (AIR 1983 SC p. 1320).

13. In the same way the discharge of the workman on the ground that he did not pass the test which would have enabled him to be confirmed was "retrenchment" within the meaning of Sec. 2(oo) and therefore the requirement of Sec. 25F of the I.D. Act had to be complied with (Santosh Gupta Vs. State Bank of Patiala AIR 1980 SC p. 1219). In this case, however, three other workmen were given three chances to pass the N.C.T.V.T. Examinations. As per Ex. W/5 dated 15-2-1984 i.e. before his termination from service the workman in question was also permitted to appear in the said test to be held in April, 1984. It follows that on 15-2-1984 the workman was found fit to be again permitted to appear in the said examinations. That apart, having permitted him to appear in once again in the said examinations, which he subsequently passed his services should not have been terminated because the alleged condition was waived by virtue of order Ex. W/5 dated 15-2-1984. One more fact which has to be noted in this regard is that the specific allegations made against the workman were his being absent from duty as detailed in para 3 of the statement of claim of the management. The last date of absence from duty was 28-3-83 and the permission to appear in the alleged examination was given on 15-2-1984. It follows that despite the alleged misconduct of the workman permission to appear in the examination was given to him as per W/5 and this fact further strengthens my above view that not only the condition of passing the examination within the specified period was waived but also his alleged conduct was not taken into consideration at that time.

14. Thus the non-compliance of the provisions of Sec. 25F of the I.D. Act are fatal to the order of his termination and it being "retrenchment" and precondition of Sec.

25F of the I.D. Act having not satisfied, the termination of service of the workman is ab initio void, invalid and inoperative. He must, therefore, deem to be in service [Mohan Lal vs. The Management of M/s. Bharat Electronics Ltd. (AIR 1981 SC p. 1253) (paras 15 and 16).

15. Their Lordships of the Supreme Court in the case of State Bank of India vs. Shri N. Sundara Money (AIR 1976 SC p. 1111) have observed as thus :—

“What follows? Had the State Bank known the law and acted on it, half a month's pay would have concluded the story. But that did not happen. And now, some years have passed and the Bank has to pay, for no service rendered. Even so, hard cases cannot make bad law. Reinstatement is necessary relief that follows.”

16. In view of the above discussions I record my findings as follows and answer the reference accordingly.

(a) Action of the management in terminating the services of Shri Lalji Yadav S/o Shri Ram Swaroop, Junior Examiner with effect from 20-2-1984 was unjustified and void ab initio for want of non-compliance of the provisions of Sec. 25F of the I.D. Act, 1947. The workman would, therefore, be deemed to be in service as if there was no termination order against him.

(b) In the fact and circumstances of this case the workman, due to the above order, shall be put back where he was left off but his new salary will be what he would draw were he to be appointed in the same post today de novo. He shall not be entitled to any back wages or any other benefit due to the above order.

There shall be no orders as to costs.
Award given as above.

V. N. SHUKLA, Presiding Officer
[No. 32/11/86-Con.I/D.II(B) (Pt.)]
HARI SINGH, Desk Officer

नई दिल्ली, 16 नवम्बर, 1989

का. प्रा. 3053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मससे भारत कोकिंग कोल लिमिटेड की सेन्द्रा बंसजोरा कोलियरी के प्रबन्धन से सम्बद्ध निगोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संख्या 1 धनबाद के पंचाट को प्रकाशित करती है।

New Delhi, the 16th November, 1989

S.O. 3053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the ma-

nagement of Sendra Banerjee Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(i)(d) of the Industrial Disputes Act, 1947.

Reference No. 66 of 1982.

PARTIES :

— Employers in relation to the management of Sendra Bansjora Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : Shri G. Prasad, Advocate.

For the Workmen : Shri B. K. Ghose, Member, Executive Committee, Janta Mazdoor Sangh.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 16th October, 1989.

AWARD

The present reference arises out of Order No. L-20012(51)/82-D.III(A), dated, the 24th June, 1982 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :

“Whether the demand of the workmen of Sendra Bansjora Colliery of Messrs Bharat Coking Coal Limited, Post Office Bansjora, District Dhanbad for reinstatement of the workmen listed in the Annexure below as Wagon Loaders is justified ? If so, to what relief are the workmen concerned entitled ?”

Sl. No.	Name	Husband's/Father's Name
1	2	3
1.	Shri Chhotan Bhuiya	Shri Shukar Bhuiya
2.	Shri Sharshripat Gorai	Shri Janki Gorai
3.	Shri Muni Lal Rajbhar	Shri Kumar Rajbhar

1	2	3
4. Shri Ram Pyara Mahto	Shri Rajan Mahto	
5. St. Jageswari Mahto	Shri Ram Parilan Mahto	
6. Shri Moti Bhuiya	Shri Shiv Bari Bhuiya	
7. Shri Nanda Bhuiya	Shri Chander Dip Bhuiya	
8. Shri Guhi Bhuiya	Shri Jag Lal Bhuiya	
9. Shri Chetan Bhuiya	Shri Fekan Bhuiya	
10. Shri Khalil Miyan	Shri Jalil Miyan	
11. Shri Jugeswar Mahto	Shri Budhan Mahto	
12. Shri Lakhan Rabidas	Shri Bagali Rabidas	
13. Shri Jagdish Rajwar	Shri Bachan Rajwar	
14. Shri Rajeswar Mahto	Shri Parmanand Mahto	
15. Shri Moti Chamar	Shri Ramchander Chamar	
16. Shri Shripat Bhuiya	Shri Nand Kisor Bhuiya	
17. Shri Ram Prasad	Shri Moti Lal Prasad	
18. Shri Kali Miyan	Shri Shalim Miyan	
19. Shri Stripat	Shri Mita	
20. Shri Jogeswar	Shri Parmeswar	
21. Shri Baleswar	Shri Nathhuni	
22. Shri Ram Pyare	Shri Anurudh	
23. Shri Shiv Prasad Vilash	Shri Suraj Narayan Vilash	
24. Shri Shiv Prasad	Shri Ram Varan	
25. Shri Parmeswar Bhuiya	Shri Fakira Bhuiya	
26. Shri Matal Bhuiya	Shri Ram Narayan Bhuiya	
27. Shri Shukar Ray	Shri Anoop Lal Ray	
28. Shri Ram Sharan Pashi	Shri Shambhu Pashi	
29. Shri Chetu Kumhar	Shri Arjun Kumhar	
30. Shri Trinath Mali	Shri Baleswar Mali	
31. Shri Baikunth Mali	Shri Tulsi Lala	
32. Shri Mohan Bhuiya	Shri Shiv Dhari Bhuiya	
33. Shri Prem Bahadur	Shri Dal Bahadur	
34. Shrimati Nira Kamin	Shri Satya Narayan Saw	
35. „ Kanti Kamin	Shri Kali Ram	
36. „ Meturi Kamin	Shri Jethhu Ram	
37. „ Tulwa Kamin	Shri Mukesh Kumar	
38. „ Shulochana Kamin	Shri Umesh Kumar	
39. „ Nagina Yadav	Shri Ram Khelawan Yadav	
40. Shri Muni Lala Rajbhar	Shri Ram Adhin Rajbhar	
41. Shri Pirtam Mahto	Shri Manhaki Mahto	
42. Shri Rameshwar Pasi	Shri Anand Pasi	
43. Shrimati Malti Kamin	Shri Ram Nandan Saw	
44. „ Gita Kamin	Shri Ram Baran Singh	
45. „ Sabiya Kamin	Shri Aitwari Chamar	
46. „ Tetari Kamin	Shri Harku Mahto	
47. „ Joluwa Kamin	Shri Hari Narayan	
48. „ Kamla Kamin	Shri Rama Kant Singh	
49. „ Mangari Kamin	Shri Kameswar	
50. „ Pawtiya Kamin	Shri Vashant Mahto	
51. „ Kavitri Kamin	Shri Dinesh Kumar	
52. „ Rashim Kamin	Shri Narmali	
53. „ Chanmani Kamin	Shri Lakhan	

1	2	3
54.	Shrimati Labiya Kamin	Shri Gobra Turi
55.	„ Tileswari Kamin	Shri Ramji Sigh
56.	„ Chita Kamin	Shri Pariyag Ram
57.	„ Shankuntla Kamin	Shri Hari Ray
58.	„ Shanti Kamin	Shri Jamuna Ram
59.	„ Gayatri Kamin	Shri Saman Ram
60.	„ Radhiya Kamin	Shri Prasadi Ram

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer.

[No. L-20012(51)82-D.II(A)[IR(coal-I)]

ANNEXURE

BEFORE THE HON'BLE PRESIDING OFFICER,
(CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1 DHANBAD

Ref. Case No. 66/82

PARTIES :

Employers in relation to the management of
Sendra Bansjora Colliery.

AND

Their workmen.

The humble joint petition of Compromise on behalf of the parties most respectfully Shewth :—

1. That, the Central Government by a notification No. L-20012(51)82-D III(A) dt. 24-6-1982 has referred the Industrial dispute as per Schedule noted for an adjudication U/S 10(I)(d)(7A) of the Industrial dispute Act 1947 (14 of 1947) hereinafter referred to as the act, to this Hon'ble Tribunal.

SCHEDULE

“Whether the demand of workmen of Sendra Bansjora Colliery of M/s. B.C.C. Ltd. post office, Bansjora Dist. Dhanbad, for re-instatement of the workmen Listed in the Annexure below as wagon Loaders is justified. If so, to what relief are the workmen concerned entitled?”

2. That, the parties discussed the dispute outside the court and have settled the dispute on the following terms and conditions.

Terms of Settlement :

Keeping in view the item No. 3 of circular No. D. P)[PS]86/2649-949(H) dated 8/9-5-1986 issued by D.(P) BCCCL wherein conditions have been stipulated for providing employment to delisted casuals as Badli Miners/Loaders, the joint committee members decided as follows :—

- (i) On the basis of more than 75 days attendances put in by the Six male persons namely S/Shri Chhotan Bhuia, Khalil Mia, Sukar Roy, Ramasaran pass, Chaitu Kurahar and Trinath mal and one dependent Son of Smt. Joluwa kamin female employee of Sendra Bansjora Colliery, from the year 1973—76 may be provided employment as Badli Miners/Loaders, Subject to their fulfilling the conditions regarding age, physical fitness etc. as stipulated in the circular dated 8/9-3-1986.
- (ii) Accordingly remaining 53 delisted casuals who are partly in the case No. 66/82 will have no claim for employment whatsoever.
- (iii) The management representatives raised certain doubts that some of the delisted casuals have got employment in the Area and they are working in different collieries of the area, as such it was decided that employment to six male persons named above may be given employment after proper checking of such doubtful persons and then only the employment be given.
- (iv) It was also decided that the union and management will jointly apply to the CGIT to give the Award on the basis of our decision given above.

To eliminate the chances of any impersonation taking place the members of the joint committee recommended as follows :

- (a) The above named six male & one female delisted casuals will produce all relevant certificates/documents to the management alongwith their photographs duly certified and attested by the Mukhiya and BDO within three months in support of their claim for employment. Those who are unable to produce certificates/documents within the period of three months from the date of signing of the settlement before the

Tribunal, they will forfeit their claim whatsoever for enlistment as Badli Miners/Loaders.

(b) On receipt of such certificates/documents as stated above the management will have right to get the same examined/verified through the police/vigilance dept. to ascertain the genuineness of the claim.

(c) If at any time the particulars/certificates/documents submitted by the above mentioned delisted casuals are found to be false and not genuine, the management will be free to terminate their services without any notice or reference to them.

(d) Each delisted Casuals named above will swear an affidavit claiming to be genuine workmen with Photograph while giving details, such as, father's name, date of birth (age), address, caste etc.

(e) The photograph so received will be displayed on the Notice Board of Sendra Bansjora Colliery and if no representation is received within 30 days they shall be entitled to get work as Badli Miners/Loaders.

3. This settles all the dispute between the parties.

4. That, the settlement is fair and proper.

5. That, it was also agreed that seven Copy of settlement be filed before the Hon'ble Tribunal and the Hon'ble Tribunal, may be requested to pass an Award in terms of Settlement.

It, is therefore, prayed that your honour may be Graciously pleased to accept the settlement and pass an Award in terms of Settlement.

And for this act of kindness the party shall ever pray.

Representing Workmen. Representing Employers.

(1) Sd/- Illegible (1) (C. P. Bansal)

(2) Sd/- Illegible (1) R. K. Chaudhary)

Witness :

(1)

(2)

Part of the award.

By. C.P.M.
Presiding Officer.

का. अ. 3054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मसौदा भारत कोकिंग कोल लिमिटेड का जोगता फायर प्रोजेक्ट के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the
3332 GI/89—6

Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Bharat Coking Coal Ltd's Jogta Fire Project and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
PRESENT

Shri I. N. Sinha, Presiding Officer

Reference No. 350 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of M/s Bharat Coking Coal Limited's Jogta Fire Project and their workmen.

APPEARANCES

On behalf of the workmen— Shri K. D. Prasad, Secretary, Coal Mines Engineering Workers Association.

On behalf of the employers.—Shri G. Prasad, Advocate.

STATE : Bihar

INDUSTRY : Coal.

Dated, Dhanbad, the 16th October, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/181/S5-D.III(A), dated the 19th November, 1986.

SCHEDULE

"Whether the demand of Coal Mines Engineering Workers' Association that the management of Jogta Fire Project of M/s. Bharat Coking Coal Limited, should regularise their workmen, Sri Suresh Ram and Radheshyam as Dumper Operator in Excavation category C with retrospective effect is justified? If so, to what relief are these workmen entitled?"

The case of the workmen is that the concerned workman Suresh Ram was working as General Mazdoor by the office order dated 6/7-12-82. He was holding driving licence and was sent for training for the operation and maintenance of Tata Tipper/Truck by the Project Officer of Jogta Fire Project. Thereafter by the office order dated 13/14-1-83 the concerned workman Suresh Ram along with 2 others were ordered to operate the Water Tanker and Tats truck in rotation of shift from 14-1-83 by the Executive Engineer, Excavation. Since then the concerned workman Suresh Ram is operating Water Tanker/ Dumper in Jogta Fire Project. The other concerned

workman Shri Radheshyam was working as Wagon loader was directed by the office order dated 9-6-83 by the Project Manager of Jogta Fire Project to undertake training for the operation and maintenance of Tata Tipper/truck as he was already holding driving licence. Since then the concerned workman Radheshyam was operating Tata Tipper/truck/dumper in Jogta Fire Project. Both the concerned workmen were authorised by the competent authority to operate heavy vehicle. They were performing their duties honestly and the authorities were satisfied with their work. The designation of the concerned workman Suresh Ram is still continuing as General Mazdoor although he is working as Dumper Operator and his designation should be Dumper operator. The concerned workman Radheshyam is still continuing with the designation as Wagon loader although he is working as Dumper operator and he deserves to be designated as Dumper Operator. The concerned workman and their union demanded for their regularisation as Dumper operator in Excavation Category C with retrospective effect. But the management did not concede to their request and their union raised an industrial dispute before the ALC(C), Dhanbad. During the conciliation proceeding before the ALC(C), the management had stated that steps were being taken for their regularisation in Excavation Grade. On failure of the conciliation, the Govt. referred this dispute for adjudication to this Tribunal.

The case of the management is that the concerned workmen had not worked as Dumper operator and they were driving water tanker and Tata Tippers. The grouping, job description etc. of Excavation Grade-C presently consists of Excavation Grade-II and Drill operator Grade-II only and earlier it contained Excavation Operator Gr. II, Crane operator Grade-II, Dumper Operator Grade-I, Excavation Plant Mechanic Grade-II and Grade Operator only which require experience of 3 to 6 years. The concerned workmen did not possess the said experience. Both the concerned workmen had been transferred to Jogta Fire Project and were driving water tanker and tipping trucks. The water tanker is fitted on truck. The capacity of tipping truck is 7 tonnes. Till the end of 1983 there was a dumper in Jogta Fire Project which was subsequently transferred to other collieries. The concerned workmen were never authorised to work as Dumper Operator. The concerned workmen were never assured for posting them as Dumper operator which is in Excavation Grade. There is no excavation work of coal in Jogta Fire Project. The work in Jogta Fire Project is mainly to remove the fire after exposing the entire fire and to fill the water by earth. The concerned workmen had no knowledge and experience of operating dumper. On the above facts it is submitted that the demand of the workmen for Excavation Cat.C is not justified.

The points for decision in the case are the following :—

1. Whether the concerned workmen have been working as Dumper operator and
2. Whether they are entitled to excavation Cat.C with retrospective effect ?

The workmen have examined two witnesses and the management has examined one witness in support

of their respective case. The documents of the workmen have been marked Ext. W-1 to W-11. No document has been marked on behalf of the management.

Point No.1

It will appear from the W.S. of the workmen that they are claiming to be dumper operator on the basis of office order Ext.W-1 dated 6/7-12-82, Ext.W-2 dated 13/14-1-83, Ext. W-5 dated 9-6-83 and Ext. W-6 dated 13-7-85. On perusal of Ext. W-1 it will appear that the Project Officer of Jogta Fire Project vide his office order dated 6/7-12-82 permitted Suresh Ram to undertake training for the operation and maintenance of Tata Tipper/Truck. There is no mention in Ext. W-1 that Suresh Ram was permitted to undertake training for operation and maintaining of Dumper. Ext. W-2 dated 13/14-1-83 will show that the concerned workman Suresh Ram and 2 others were ordered to operate water tanker and tata truck in rotation and shift from 14-1-83 and only in case the vehicle is idle they may be sent to operate other vehicles. Thus these two office orders do not show that the concerned workman Suresh Ram was either put under training for the operation of Dumper or was ordered to operate a dumper. On the contrary these two documents show that Suresh Ram was put under training for operation and maintenance of Tata Tipper/truck and that he was ordered to operate the same. Ext. W-5 dated 9-6-83 shows that the concerned workman Radheshyam was permitted to undertake training for the operation and maintenance of Tata Tippet/truc. There is a note at the foot of Ext. W-5 which shows that Radheshyam was allowed in the first shift from 10-6-83 for 10 days and then he was to be given in shift rotation. Ext. W-6 dated 13-7-83 shows that the concerned workman Radheshyam and 2 others were directed to work in B shift with effect from 14-7-83 in rotation. These two orders also do not show that the concerned workman Radheshyam was put under training for operation and maintenance of Dumper of that he was asked to operate dumper. On the contrary Ext. W-5 and W-6 show that the concerned workman Radheshyam was put under training for the operation and maintenance of Tata Tipper/truck and that he was ordered to operate Tata Tipper/Truck.

The workmen have referred to Ext W-4 dated 14-9-85 which is the comment filed on behalf of the management before the ALC(C), Dhanbad. Ext. W-8 is a photocopy of Ext. W-4. It appears from the comment of the management in Ext. W-4 that the management is taking action to regularise the concerned workmen as per norms mentioned in the cadre scheme of the Excavation personnel. In para-3 it is stated the demand of the union to place the concerned workmen directly in Excavation category-C is not justified and that the concerned workmen will be regularised and category will be given as per norms fixed in the cadre scheme. It is stated in Ext. W-4 that the management is taking action to regularise the concerned workmen as per norms mentioned in the cadre scheme of the excavation personnel. It is submitted that the management had already agreed in the past to regularise the concerned workmen in the excavation grade. Except this document there is no other document to show that the concerned workmen were to be placed in the excavation grade.

We have now to consider the evidence whether the concerned workmen were working as Dumper Operator. WW-1 is the concerned workman Suresh Ram. He has stated that he is continuously working as Dumper Operator since his engagement as Dumper Operator. He has also stated that the Dumper being operated by him is of the capacity of 25 tonnes. In cross-examination he has stated that he had not previously been given any training of operating dumper and that he learnt to operate dumper while he was driving water tanker. He has stated that water tanker is fitted in a truck and the said water tanker is not a dumper. He has accepted that he was given training to drive Tata trucks and that there is no order in Ext. W-2 to show that he was asked to operate dumper. He has also stated that a Dumper is of the capacity of 18 tonne to 85 tonne. He has accepted that about 5 to 6 months ago he was promoted in Cat. V. Thus it will appear from the evidence of WW-1 Suresh Ram that he had not been given any training to operate dumper. He has not filed any document to show that he was authorised to operate any dumper at any time. WW-2 is the other concerned workman Smt Radheshyam. He has stated that he is driving Tata Tipper and also dumper and that the Dumper being operated in Jogta Fire Project is of 25 tonnes capacity. He has further stated that he was assured for regularisation in the Excavation Grade and claims that as he is operating dumper of 25 tonnes capacity he should get excavation Grade-C. He has further stated that Suresh Ram who works along with him as dumper operator was given Cat. V but he has not been given Cat. V. In cross-examination WW-2 has accepted that the management vide office order Ext. W-3 allowed him for training for operation of a Dumper on perusal of Ext. W-5 it will appear that the concerned workman Radheshyam was permitted to undertake training for operation and maintenance of Tata Tipper/trucks and thus this evidence of WW-2 that he was allowed to undertake training for the operation of Dumper vide Ext. W-5 is not at all correct. He has further stated in his cross-examination that he had not received any other letter ordering him or taking training of operating dumper. He has stated that Tata Tippers are of 8 tonne capacity whereas a dumper is of 25 tonne capacity. He himself does not know of any cadre scheme in respect of excavation grade. He has stated that he has no paper with him to show that the management had given assurance for regularising him in the excavation grade. MW-1 is working as Acting Manager of Jogta Fire Project from December, 1982. He knows both the concerned workmen. He has stated that after transfer of both the concerned workmen to Jogta Fire Project they were driving water tanker tipping trucks. He has stated that the capacity of tipping trucks is 7 tonnes. The water tanker is fitted on a truck and dumper having the loading capacity from 25 tonnes to 85 tonnes. He has clearly stated that the concerned workmen never worked as Dumper operator. He has stated that till the end of 1983 there was dumper in Jogta Fire Project but thereafter he was transferred to other colliery. He has also stated that the 2 concerned workmen were never authorised to work as Dumper operator. According to him truck driver are in time rated Cat. V

and that the concerned workmen were never assured for posing them as dumper operator in excavation grade. He has further stated that there is no excavation work of coal in Jogta Fire Project and the main work in Jogta Fire Project is to remove the fire after exposing the entire site and to fill the area by soil. He has stated that the concerned workmen have no knowledge or experience of operating drag line, shovel line and dumper. In cross-examination he has stated that the tipping trucks are also known as Dumper but its capacity is that of an ordinary truck. He has stated that Grade-E is given during the period of training as Dumper operator and after training Grade-D is given to a dumper operator. Towards the end of his cross-examination MW-1 has stated that the concerned workmen should get the difference of wages between the general mazdoors and tipping truck drivers.

It will appear from Implementation Instruction No. 51 of NCWA-III which provides for grouping job description etc. of excavation workers that special grade was created for Sr. Dumper operator. A highly skilled workman with not less than 10 years experience in the operation of heavy duty off the high way dumpers or Coal haulers of which he must have 3 years minimum experience in the next below grade i.e. in Group-A. The case of the concerned workman admittedly is not covered under special grade. The grouping of excavation workers of NCWA-I shows that a Dumper operator Grade-I is a skilled workman with not less than 5 years experience in the operation of heavy duty of high way dumper or Coal Haulers like EUCLID, MACKS, LETURNEAU etc. of not less than 22 tonne capacity. He should also have general knowledge of the mechanism of the equipment and should undertake minor running repairs and should hold valid licence endorsed for driving heavy duty vehicles. The concerned workmen do possess licence for driving heavy duty vehicles as per Ext. W-3 and W-7 but so far as other qualifications for dumper operator Grade-I is concerned the concerned workmen do not possess experience of heavy duty of the highway dumpers or coal haulers etc. of not less than 22 tonne capacity. There is no assertion in the evidence that the concerned workmen have general knowledge of the mechanisms of the equipment and can undertake minor running repairs. The implementation instruction No. 16 dated 22.2 of NCWA-III which was finalised by the standardisation committee provides for grouping job description etc. of Excavation workers. It will appear from annexure A of the said implementation instruction that a Sr. Dumper Operator in Group A is highly skilled workman with not less than 8 years experience in the operation of heavy duty of the highway dumper or coal haulers of which he must have 3 years experience in the next below grade i.e. in Group-B. He will operate such equipment of a capacity of 45 tonnes and above and should have general knowledge of the mechanism of the equipment and should undertake minor maintenance and running repairs. In Group B there are only Excavation Operators Grade-II and Drill Operator Grade-I. In Grade-C there are only Excavation Operator Grade-III, Drill Operator Grade-II and in Grade-D there are only Excavator (Junior) and Drill Operator Grade-III,

no post of Dumper Operator in Excavation Grade-C. I have discussed the above facts in details to show that there is no post of Dumper Operator in Grade-C in the Excavation and such even if it be found that the concerned workman was working as Dumper operator he could not have been given Excavation Grade-C as being claimed by them. However, it will appear from the discussion made above that there is no reliable evidence to show that the concerned workmen were actually working as Dumper operators and it appears from the evidence that they were actually operating tipper trucks of the capacity of 7 tonnes and which is in common parlance said as Dumper but in fact Tipping truck is not dumper as the dumper is of the capacity of 18 tonne and above. The mere mention in the comment of the management in Ext. W-4 that action was being taken for regularising the concerned workman as per norms mentioned in the cadre scheme of the Excavation personnel cannot establish a fact other than what has been stated by the workmen in their evidence showing that they were actually driving tipping trucks and water tanker. I hold, therefore that the concerned workmen were not operating Dumper and as such they were not dumper operators.

Point No. 2

In view of the discussions made above it appears that the concerned workmen were operating tipping trucks and water tanker and were not operating dumper and as such there is no reason as to why they should be regularised as Dumper operator in any group or grade. As the concerned workmen are operating tipping trucks and water tankers they have been rightly placed in Cat. V. The concerned workmen Suresh Ram is admittedly placed in Cat. V. Ext. W-9 is the office order which shows that Suresh Ram along with 2 others were regularised as drivers in Cat. V. So far the other concerned workman Radheshyam is concerned WW-2 has stated that he has not been given Cat. V by the management although the other concerned workman Suresh Ram has been given Cat. V. The management has not filed any paper in this case to show that Radheshyam has been placed in Cat. V. There is no reason as to why Radheshyam should not be given Cat. V when the other concerned workman Suresh Ram has been given Cat. V for doing the same job. I hold therefore that the concerned workmen are not entitled to be placed in Excavation Group-C and that concerned workmen are entitled to be placed in Cat. V.

It will appear from the evidence of MW-1 himself that the concerned workman should get the difference of wages between the General Mazdoor and tipping truck drivers which admittedly has not been given to the concerned workman in prior to placing of the concerned workman Suresh Ram in Cat. V vide Ext. W-9 dated 21/24-11-87. It appears admitted by the MW-1 that the concerned workman are driving water tanker and tipping trucks and the documents filed on behalf of the workman show that the concerned workman Suresh Ram is driving water tanker and Tata Truck from 14-1-83 and the concerned workman Radheshyam is driving the tipping truck and the water tanker from 13-7-83. It is also admitted that they were getting the wages of Cat. I prior to their placing

in Cat. V. In the above view of the matter the concerned workman deserves to be paid the difference of wages between Cat. I and Cat. V and the said difference of wages must be paid to the concerned workman.

In the result, I hold that the demand of Coal Mines Engineering Workers Association that the management of Jogta Fire Project of M/s. BCCL should regularise their concerned workmen S/Shri Suresh Ram and Radheshyam as Dumper Operator in Excavation Cat. C with retrospective effect is not justified. As the concerned workman have been doing the job of Cat. V the management must pay the difference of wages of Cat. I and Cat. V to the concerned workman Suresh Ram from 14-1-83 to 23-11-87. The management should also pay the difference of wages of Cat. I and Cat. V to the concerned workman Radheshyam from 13-7-83 onwards but as he has also been placed in Cat. V as being asserted by the management he should be paid the difference of wages from 13-7-83 upto the date of his placing Cat. V. The management must pay the difference of wages to the concerned workman within 2 months from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer

[No. L-20012(181)/86.D.III(A)/IR (Coal-I)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 21 नवम्बर, 1989

का. प्र. 3055—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रिय सरकार मैसर्स भारत कोकिंग कोल लि. की औद्योगिक फायर परियोजना के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिनियम (सं. 2) धनबाद के पंचाट को प्रकाशित करता है।

S.O. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jogta Fire Project of M/s. Bharat Coking Coal Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 241 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947

PARTIES :

Employers in relation to the management of Jogta Fire Project of Messrs. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. B. Pandey, Advocate
On behalf of the employers—Shri G. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 20th October, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the

I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/61/80-D.III(A), dated the 4th July, 1986.

SCHEDULE

"Whether the demand of Coal Mines Engineering Workers' Association that the management of Jogta Fire Project of M/s. Bharat Coking Coal Limited should regularise their workman, Shri Abdul Rashid, Dumper Operator as Fitter Grade 'A' is justified? If so, to what relief is the said workman entitled?"

The case of the workman is that the concerned workman Shri Abdul Rashid was first appointed as HEMN (Trainee) in Jogta Fire Project of M/s. BCCL in 1981. In March, 1982 he was designated as heavy earth moving machinery Dumper operator and was placed in Grade-C. By the office order dated 18-12-83 the concerned workman was assigned to work as fitter and his responsibilities as fitter was enumerated in the said office order. Since 20-2-83 the concerned workman has been working as Fitter Excavation in pursuance of the aforesaid office order. The concerned workman represented before the management to change his designation from Dumper Operator to Fitter excavation and to be placed in Grade-A and he also asked the management for payment of difference of wages of Grade-A from 20-2-83. The Project Officer allowed the same in view of the satisfactory performance of the work of Mechanical Fitter Grade-A by the concerned workman but he could not be paid the said difference of wages as it was found that the existing basic wages of the concerned workman was higher than the starting basic wages of Grade-A. The concerned workman has not as yet been designated as Fitter Grade-A though he was entitled to be regularised in Fitter Grade-A since February, 1983 as he was continuously working as Fitter Grade-A. During the pendency of the industrial dispute pending before the ALC(C), Dhanbad the management transferred the concerned workman from Jogta Fire Project to Katras Area with a view to harass him and prejudice his case. The demand of the union that the management of Jogta Fire Project should regularise the concerned workman Shri Abdul Rashid, Dumper operator as Fitter Grade-A is justified and as such it has been prayed that the concerned workman should be regularised as Fitter Grade-A since February, 1983 with consequential benefits.

The case of the management is that the grouping of Excavation workers as in NCDC as per recommendation of the Coal Wage Board was adopted with some minor amendments and modifications under the three NCWA's. There is no such designation/job description in Grade-A as Fitter Grade-A in excavation cadre as has been mentioned in the schedule of the reference order. Group B of the Excavation cadre contains excavation plant Fitter Grade-I and Group-D also contains Excavation Plant Fitter Grade II vide Part-II page-52 and 56 of the Coal Wage Board Recommendation. Thus the very demand for the placement of the concerned workman who is a Dumper Operator as Fitter Grade-A is beyond the recommendation of the Coal Wage Board and the three NCWA's. The management cannot afford to create job and regularise and place the concerned workman in a grade which is beyond the three NCWA's. The scope of reference to place the concerned workman in grade which is outside the term of the schedule to the order of reference cannot be enlarged. Some of the officers of the employers while addressing a few letters addressed to the concerned workman as Fitter was on advertently made and the concerned workman cannot take advantage of such mistake. Promotion is made on the basis of the recommendation of the D.P.C. formulated by M/s. BCCL for the Excavation section. The dumper operators have been placed in different groups namely Group-C and Group-B of the excavation cadre. The concerned workman who was appointed as trainee HEMM on 29-1-81 does not possess the requisite qualification and experience as has been prescribed under the Coal Wage Board recommendation for regularisation/promotion to the post of Fitter Grade-A. Even for Group-B excavation plant Fitter Grade-I a minimum of 7 years experience has been prescribed which the concerned workman does not still possess and as such the demand for the regularisation of the concerned workman in Fitter Grade-A is not justified. The concerned workman has not been working as a Fitter Grade-I of the Excavation plant and as such his

demand for regularisation as Fitter Grade-A is not justified. No excavation work for the purpose of searching or obtaining mineral is carried out in Jogta Fire Project. M/s. BCCL after nationalisation in 1972 chalked out a project to control and put out fire both on the surface and on the underground in the collieries so that fire may not spread to other coal mines.

The concerned workman was surplus to the requirement of the employer and therefore the concerned workman was assigned light job as there was no requirement for the job of Dumper Operator by the management. The management was adjusting him in the light vehicle job in Cat. V. As a matter of policy the Dumper Operators cannot be promoted to the post of Fitter ex-cadre, as the concerned workman does not have the requisite experience and qualification and training as per cadre scheme for the excavation work. The concerned workman was temporarily engaged as a Fitter. There is no excavation work in Jogta Fire Project after closure of the fire work. After the closure of the project work, the concerned workman was transferred on temporary employment as Fitter which does not entitle the concerned workman for promotion as Fitter Grade-A. On the above facts it is prayed on behalf of the management that the demand of the concerned workman is not justified and he is entitled to no relief.

The points for consideration in this case are :—

- (1) Whether the concerned workman is working regularly as Fitter Grade-A? and
- (2) Whether the concerned workman is entitled to be regularised as Fitter Grade-A and further entitled to the payment of any difference of wages between Grade-C and Grade-A?"

The workmen examined two witnesses and the management examined one witness in support of their respective case. The documents of the workmen have been marked Ext. W-1 to W-6. No document has been filed on behalf of the management.

Point No. 1

It is the admitted case of the parties that the concerned workman was first appointed as Heavy earth moving machinery (trainee) in 1981. It is also admitted that in March, 1982 he was designated as Heavy earth moving machinery Dumper Operator and was placed in Grade-C of the Excavation cadre. It is admitted by the management that the concerned workman was temporarily directed to work as a Fitter whereas according to the workmen the concerned workman was permanently assigned to work as a Fitter. Ext. W-1 dated 18-2-83 is the office order on the basis of which the concerned workman WW-2 Abdul Rashid claims to have been directed to work as Fitter in 1983. WW-2 has stated that Ext. W-1 is the Office order dated 18-2-83 and on its basis he is working as a Fitter since 20-2-83. He has further stated that as Fitter he should have been designated as Fitter Grade-A and paid the wages of Fitter Grade-A but the management was paying him the wages of Grade-C. MW-1 who is working in Jogta Fire Project since December, 1982 is the acting manager of Jogta Fire Project. He has stated that the concerned workman is working as a Fitter but his designation is of Dumper Operator. He has further stated that the concerned workman was a Fitter of Truck, water tanker, Terex Pay loaders etc. He has stated that a Dumper Operator is in Excavation Grade and that the cadre scheme has been framed for the excavation category. He has further stated that Fitters are in Cat. IV, V and VI and that a promotion is made on the report of the D.P.C. He has also stated that the post of Fitter Grade-A is not in the excavation category. It will appear from the cross-examination of MW-1 that the concerned workman was doing the job of highly skilled nature in as much as he was doing the job of engine assembling repairing and transmission which are mechanical jobs of highly skilled nature. But he was unable to say that the jobs being performed by the concerned workman are of Fitter Grade A. It will appear from para 3 of the W.S. of the workman that vide office order dated 18-2-83 the concerned workman was assigned to work as Fitter and the responsibility entrusted to him was enumerated in the said office

order Ext. W-1 will show the responsibilities of the Asst. Foreman, Fitter, Fitter helper. The responsibilities stated are that they should ensure proper maintenance (routine) in the beginning of the shift in the morning, vehicles must come out of the shed by 8.15 A.M., they will keep their tools and oils in their rooms, maintenance of records except log books and to ensure that higher consumption items are stored in their respective shift room. Thus this order Ext. W-1 which enumerates the responsibilities of the Asst. Foreman, Fitter etc. are not the job relating to jobs of highly skilled nature. It will further appear from Ext. W-1 that the office order was in respect of light vehicles and the responsibilities mentioned in Ext. W-1 are relating to the light vehicles of Jotga Fire Project. Thus Ext. W-1 does not show that the concerned workman who is named in Sl. No. 3 of the manpower as Fitter in Ext. W-1 had the responsibilities of doing job of highly skilled nature as that of engine assembling, repairing and transmission. However, it has been admitted by MW-1 that the concerned workman was doing the job of engine assembly, repairing and transmission which are mechanical job of highly skilled nature and as such I take that the concerned workman was doing the job of engine assembly, repairing and transmission which are mechanical job of highly skilled nature.

Ext. W-2 is a petition by the concerned workman to the Project Officer of Jotga Fire Project in which the concerned workman demanded for payment of difference of wages of Grade-I since 20-2-83 on the ground that he was doing the mechanic. It appears from Ext. W-3 which is a note on Ext. W-2 that difference of wages was recommended to be paid to the concerned workman in view of his satisfactory performance in the job of a mechanic. WW-2 has stated that he had filed a petition Ext. W-2 before the Project Officer for the wages of Grade-A in which Shri K. K. Malhotra put his note Ext. W-3 for the payment of difference of wages of Cat. A. On perusal of the said note Ext. W-3 it will appear that there is overwriting on Cat. C and it has been made as Cat. A. The authenticity or otherwise of the said note has not been proved by the person who had made the said note. Further the matter remains whether the concerned workman could be paid difference of wages of Cat. A. which I will discuss later on.

Ext. W-4 is an office order dated 27/29-8-1984 under the signature of the Project officer of Jotga Fire Project. It will appear from this office order that the difference of wages paid to the concerned workman for working as a Fitter was stopped with immediate effect in view of his not performing the job satisfactorily and also in view of lack of precision in the jobs being performed pre-requisites for performance according to the norms of Fitter of Grades higher than grade-C. It will appear therefore from Ext. W-4 that any difference of wages which was being paid to the concerned workman while working as a Fitter was stopped with effect from the said order as he was not doing a job of Fitter of Grade higher than Fitter Grade-C. Thus after the order Ext. W-4 dated 27/29-8-84 the concerned workman was doing the job of Fitter Grade-C only and that even prior to that he was not doing the job of a Fitter Grade higher than Fitter Grade-C.

Admittedly, the concerned workman was appointed as Dumper Operator in March, 1982 in Grade-C. Ext. W-6 series are the wage slips of the concerned workman for the months of April 1989 to August, 1989. It shows that the wage slips were issued to the concerned workman designated as Fitter and his basic wages during that period was Rs. 44.09 p. per day. The said wage is in the scale of wages of Excavation section Grade-C of NCWA-III. The scale of wages of Grade-C excavation is Rs. 36.14-1.55-51.84 per day and the concerned workman was getting the wages @ Rs. 44.09 p. per day after his annual increment were added to the starting basic wages of Grade-C of excavation grade.

Admittedly, the concerned workman was in Excavation Grade-C as Dumper Operator. The management has stated in their W.S. in para-3 that the grading of excavation workers

as in NCDC as per recommendation of the Coal Wage Board has been adopted with some minor modification under the three NCWAs which does not contain any designation job description in Grade-A as Fitter Grade-A. On perusal of the grouping of excavation workers as in NCDC included in NCWA-I shows that Group-A of the excavation section contains the designations of excavation operator Grade-I, Crane operator Grade-I and Excavating plant machine Grade-I. Group-B contains drill operator Grade-I, Excavating plant electricians Grade-I, Excavating plant Fitter Grade-I, Excavating plant Fitter Grade-I, Excavating Plant Welder Grade-I and others. Group-C contains Excavation Operator Grade-II, Crane Operator Grade-II, Dumper Operator Grade-I, Excavation Plant Mechanic Grade-II and Grade Operator. Group-D contains Drill Operator Grade-I Dumper Operator Grade-II Excavating plant Electrician Grade-II, Excavation Plant Fitter Grade-II, Excavating plant welder Grade-II, Excavating Plant Turner Grade-II and Excavation Plant machinist. The concerned workman was designated as Dumper Operator Grade-I in Group-C. Now the concerned workman is claiming that as he is working as a Fitter he should be regularised as Fitter Grade-A in Excavation grade. On perusal of the grouping of excavation workers stated above it will appear that there is designation of Excavating Plant Fitter Grade-II in Group-D, Grade-D and thereafter Excavation plant Fitter Grade-I is in Group-B but there is no designation of Excavating plant Fitter in Group-A of the excavation grades. Thus the concerned workman cannot be given or regularised in Excavation plant Fitter in Group-A which is also described as Grade-A. Then the question remains whether the concerned workman can be regularised as Excavating plant Fitter Grade-I in Group-B which is also stated as Grade-B. On looking to the job description of Excavation plant Fitter of Group-B it will appear that he is a highly skilled workman possessing atleast 7 years experience in the actual fitting and assembling of various parts of excavation equipment besides general repairs and maintenance. He also must be able to read and use instruments for accurate measurement and should undertake independently repair jobs. It will appear from the case of the workmen that the concerned workman was ordered to work as a Fitter vide Ext. W-1 and that the concerned workman has been working as Fitter excavation since 20-2-83. It cannot be expected that the concerned workman who had no training of excavating plant Fitter prior to his posting as a Fitter would be placed straightway to work in the highest grade of excavating plant Fitter Grade-I of Group-B and he must have been placed as Excavating plant Fitter of Grade-II of Grade-D but as he was already working as Dumper Operator in Grade-C Group-C he was getting the higher wages of Dumper Operator in Grade-C when he was placed as a Fitter. Thus no question arose for payment of difference of wages to the concerned workman when he was posted as a Fitter having absolutely no experience and training for the post of a Fitter. Even if any of the official of the management was trying to designate him in any higher grade of the excavation group, the same was not in accordance with the grouping as envisaged for the excavation cadre in the recommendation of the Wage Board or NCWAs. Even if it be supposed as accepted by MW-1 that he was doing highly skilled job of a mechanic he had not gained 7 years experience as Fitter. He started to work as a Fitter Excavation since 20-2-83 and he will complete his 7 years on 19-2-90. In the above view of the matter it is clear that he has not completed 7 years experience in the Fitter and assembling of various parts of excavating equipment and as such he cannot be regularised as Excavating plant Fitter in Group-B. He will get an opportunity of being regularised as Excavating plant Fitter in Group-B after he completes the experience of 7 years. In view of the above the concerned workman could not be regularised as Excavating Plant Fitter in Grade-B.

I have already stated above that there is no post of Excavating plant Fitter in Grade-A and as such no question arises for his regularisation as Fitter Grade-A.

Fitters are also in Electrical and Mechanical cadre. There are mechanical Fitters in Cat. IV, V and VI in the daily rate of scale of wages and after Cat. VI there are Asstt. Foreman Grade-C, Foreman Grade-B and Foreman Incharge Grade-A on monthly scale of pay in E&M cadre. The concerned workman is admittedly in the daily rated of wages of the excavating cadre and therefore he cannot claim

the monthly Grade-C, Grade-B or Grade-A of E&M cadre.

It will appear, admitted from the W.S. of the parties that he was transferred from Jogta Fire Project to Katras Area and as per order Ext. W-4 dated 27/29-8-84 he is performing the duties of a Fitter of Grade not higher than Grade-C and as such he cannot be regularised in any higher grade. A workman is regularised in any higher grade only when he continuous to work in the higher grade. On this ground also the concerned workman cannot claim to be regularised in any higher grade of a Fitter in the Excavation Cadre.

In view of the discussions made above I hold that the concerned workman is not working as Fitter Grade-A as there is no such grade of Fitter in the excavation cadre.

Point No. 2

I have already discussed above that as there is neither Grade-A for the Fitters in Excavation cadre nor the concerned workman was working as a Fitter in Grade-A there is no question of his being regularised as Fitter Grade-A in the excavation grade. I have also discussed above that he cannot get Grade-A of the E&M cadre as the Grade-A of E&M cadre is of Foreman Incharge which designation is not being claimed by the concerned workman. I further hold that even if the concerned workman was doing the job of a Fitter of a highly skilled nature in the excavation grade he cannot be regularised as Excavating Plant Fitter Grade-I of Group Grade-B as he does not possess 7 years experience as is required for the post of excavating plant Fitter Grade-I.

The concerned workman is not entitled to the payment of any difference of wages as he is already getting the wages of Dumper Operator Grade-C.

In the result, I hold that the demand of Coal Mines Engineering Workers Association that the management of Jogta Fire Project of M/s. BCCL should regularise the concerned workman Shri Abdul Rashid, Dumper Operator, as Fitter Grade-A is not justified and accordingly the concerned workman is entitled to no relief.

This is my Award.

Y. N. SINHA, Presiding Officer.
[No. L-20012(61)86-D.III(A)] [R(coal-I)]

का.पा. 3056—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार, भारत कोकिंग कोल लि. की ओर से, 4 की सालपुर कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध से निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Salampur Colliery of Katras Area No. 4 of M/s. B.C.C. Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 60 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of
Salampur Colliery of Katras Area No. IV

of M/s. Bharat Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen :—Shri J. P. Singh, Advocate.

On behalf of the employers :—Shri R. S. Murthy, Advocate.

STATE :—Bihar.

INDUSTRY :—Coal.

Dated, Dhanbad, the 31st October, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(172)85-D.III(A), dated the 20th January, 1986.

SCHEDULE

"Whether the action of the management of Salampur Colliery of Katras Area No. IV, M/s. Bharat Coking Coal Ltd. in stopping Smt. Manju Harin, Sweeper from work w.e.f. October, 1980 is justified? If not, to what relief is the worker entitled."

The case of the concerned workman Smt. Manju Harin is that she was appointed as temporary Sweeper with effect from 12-8-75 in Cat. I in Salampur colliery of M/s. BCCL. She was appointed vide appointment letter dated 12-8-75 which included the names of 4 other Sweepers, namely Kalu Harni Kinker Harni, Sital Hari and Rathi Harini. The concerned workman is the wife of Shri Abhilash Harin and her husband's name was mentioned in her appointment letter. The concerned workman and 4 other Sweepers who had been appointed along with her were all stopped from work with effect from October, 1980. After sometime an order was passed asking the concerned workman and 4 others, whose work were stopped, to join the duties in the same post. However, the concerned workman did not receive the said order of re-employment. Subsequently on enquiry the concerned workman learnt that another lady is working in place of the concerned workman in her name. The concerned workman filed several representations to different authorities of M/s. BCCL, but to no effect. Thereafter the concerned workman filed a petition before the AICC, Dhanbad raising the industrial dispute. The matter was taken up in conciliation in presence of both the parties but the conciliation failed.

One Smt. Manju Harin of village Hardi, P.D. Thaur, P.S. Jenger, Dist. Balasour was working in place of the concerned workman although her name did not appear in the appointment letter dated 12-8-75 in which the name of the concerned workman was mentioned as Smt. Manju Hari wife of Abhilash Harin. The lady working as Smt. Manju Harin is not the wife of Abhilash Hari. Taking advantage of non receipt of the order of the re-

appointment of the concerned workman the lady now working in the name of Manju Harin managed with the help of some designing persons to get the alleged appointment letter by adopting fraudulent means. The present Manju Harin working in the name of Manju Harin is a fake person and has fraudulently represented, the management that she is the person who was originally appointed vide appointment order dated 12-8-75. On the above plea it has been prayed that the concerned workman be re-appointed in her previous post with effect from October, 1980 together with back wages and other benefits.

The case of the management is that the reference is over stale in as much as the concerned workman was stopped from work in 1980 and she remained idle till 1986 when the concerned workman raised her industrial dispute. On 25-10-80 Rashtriya Koyla Ispat Mazdoor Sangh functioning in Salanpur colliery made representation to the management that Smt. Manju Harin, Kalu Hari, Sital Hari, Kinkar Hari along with some others should be provided employment as a Sweeper as according to the union those persons were earlier employed in the colliery as casual workers for sometime and were not given employment thereafter. After receiving the representation of the union the management agreed to employ those persons as Badli Sweeper with effect from 24-10-81. The permanent address of the 4 sweepers were not available in the colliery records and therefore they were provided employment on a certificate issued by the BDO regarding their permanent addresses etc. and on the basis of the declaration made by them that they had worked in the colliery previously. Out of the above persons one Sweepress name Manju Harin of village Hardi, P.S. Janger, P.O. Jhaur, Dist. Bilaspur was taken into employment on 24-9-83 as a badli Sweeper. Sometime thereafter another person claiming to be Manju Harin wife of Abilash Hari of village Malkera, P.S. Katras, Dist. Dhanbad approached the LEO(C) claiming that she is real Manju Harin who had previously worked in the colliery. The LEO(C) took up the matter for investigation but did not send any information to the management. In January, 1984 Manju Harin claiming to be the wife of Abilash Hari made a petition claiming that the employment be provided to Smt. Manju Harin by the management as a badli Sweeper and that she should have been given employment as she was the real person who had earlier worked in the colliery. The concerned person had never claimed employment prior to the present reference. Earlier she had not raised any dispute in regard to the alleged termination of her services by the management or about her alleged stoppage from work from October, 1980. On the above facts it is submitted that an Award be passed holding that the concerned person is not entitled to any relief whatsoever.

The points for consideration are (1) whether the concerned person was working as Sweeper and had been stopped work from October, 1980 and (2) whether Smt. Manju Harin who is presently working as a Sweepress is a fake person and is not the person who had actually worked prior to October, 1980.

The management examined one witness in support of their case who was cross-examined on behalf of the concerned person. The concerned person did not examine any witness. However, the documents of the concerned person has been marked Ext. W-1 to W-4 and the documents of the management are marked Ext. M-1 to M-3.

Points No. 1 and 2

Both these points are taken up together for the sake of convenience.

MW-1 is working in Salanpur colliery as Attendance Clerk since 1960. In 1975 to 1977 he was marking attendance of the casual Sweepers. He has stated that there was one Manju Harin Sweeper working in Salanpur colliery whose work was stopped in 1977 and she was again taken in services in 1981 and she is still working in Salanpur colliery. He has also produced the photograph of Manju Harin Sweepress who is still working in Salanpur colliery and the photo is marked as Ext.M-3 in this case. He has specifically stated that Manju Harin whose photo is Ext.M-3 was the person who was working as a Sweeper during 1975 to 1977 and that there was no other Manju Harin working in Salanpur colliery. In cross-examination MW-1 has stated that no identity card was issued to the casual workmen in Salanpur colliery during 1977 & no photograph of the casual workmen had been taken by the management. He was not sure if the attendance register of casual workmen of Salanpur colliery was still being maintained in the office of the colliery. He has also stated in his cross-examination that about 4 or five other Sweepers whose attendance was marked by him had been stopped work along with Manju Harin and all of them whose work had been stopped are presently working as Sweeper in Salanpur colliery. Ext. M-1 dated 25-10-80 is the petition filed by Rashtriya Koyla Ispat Mazdoor Union to the Agent of Salanpur colliery in connection with the ex-sweepers whose work had been stopped from Salanpur colliery on the basis of the representation of the said union. Manju Harin and seven other who were temporary sweepers of Salanpur colliery and had been stopped from duty were allowed to resume their duties as temporary sweepers and were to be allowed after proper verification. Ext. M-3 is the photograph of Manju Harin who was allowed to resume his duties vide Ext.M-2. Ext.M-2 or Ext. M-1 do not contain the name of the husband of Manju Harin. Ext. W-1 dated 12-8-75 shows that 5 persons were appointed to the post of Sweeper in Cat. I out of whom there was one Manju Harin wife of Abilash Hari. Ext. W-3 is a letter dated 24-9-83 written by the LEO(C) Katrasgarh to the Agent, Salanpur colliery by which a complaint dated 24-9-83 received from Smt. Manju Harin was sent with a request for the comment. Ext. W-4 is the future report submitted by the ALC(C) Dhanbad to the Secretary to the Govt. of India Ministry of Labour and Ext. W-2 is the industrial dispute raised by the concerned person before the ALC(C), Dhanbad. The fact that the concerned person did not raise any dispute soon after the order of the management for resumption of the duties of the stopped Sweepers Ext. M-2 dated 24-10-81 shows that she was not working as a Sweeper and her work had not been stopped. Had

it been so, she would have raised the dispute soon after 24-10-81. The industrial dispute raised by her was in 1986 and as such it appears that she was not the person who had worked as Sweeper and that was the reason that the demand was made by her after a great delay. The concerned person did not examine any witness. She even did not examine herself in support of her case. The rejoinder of the workman concerned accepts that RCMS had represented the management and then re-employment was given on the ground that they had earlier worked as Sweeper. But the attendance clerk who used to take the attendance of the Sweeper prior to the stoppage of their work has stated that the person presently working as Manju Harin was the person who was working as a Sweeper prior to the stoppage of the work. The concerned person did not file the appointment letter which was issued to her by the management and instead filed a photo copy of the letter dated 12-8-75. It is submitted on behalf of the management that the said letter has been fabricated for the purpose of this case and had the concerned person been appointed as Sweeper she must have been, as admitted by her, provided with her own appointment letter but the said original appointment letter stated to have been issued to the concerned person has not been filed. The fact that the concerned person is not coming to support her case and no witness has been adduced in support of her case shows that she is not the person who was working as a Sweeper prior to her alleged stoppage from work. I hold that it has not been established that the concerned person was the real Manju Harin who had worked as a Sweeper in Salanpur colliery prior to the alleged stoppage of work prior to October, 1980. I further hold that Smt. Manju Harin who is presently working in Salanpur colliery is the person who had worked as Sweeper in Salanpur colliery prior to October, 1980.

In the result, it is held that the action of the management of Salanpur colliery of M/s. B.C.C.L. was not unjustified in as much as the concerned person Smt. Manju Harin had not worked as Sweeper in Salanpur colliery and her work was not stopped with effect from October, 1980. Accordingly she is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer.

[No. L-20012(172) 85-D.III(A) 11R(Coal-D)]

नई दिल्ली, 21 नवम्बर, 1989

का.पा. 3057—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सैनर भारत कोकिंग कोल लि. को जोगता प्रनिदमन परियोजना के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं. 2) धनबाद, के पंचाट को प्रकाशित करती है।

New Delhi, the 21st November, 1989

S.O. 3057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government publishes the award of the Central Government Industrial Tribunal (No. 2), 3332 GI/89—7.

Dhanbad as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Jogta Fire Project of M/s. Bharat Coking Coal Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

REFERENCE NO. 243 OF 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of Jogta Fire Project of Messrs, Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen : Shri B. B. Pandey, Advocate.

On behalf of the employers : Shri G. Prasad., Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 19th October, 1989.

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/73/86-D.III(A), dated the 4th July, 1986.

THE SCHEDULE

"Whether the demand of Coal Mines Engineering Workers' Association that the management of Jogta Fire Project of M/s. Bharat Coking Coal Limited should regularise their workman, Shri Shyam Singh, Shovel Operator as Shift Supervisor in Grade-A is justified? If so, to what relief is this workman entitled?"

The case of the workmen is that the concerned workman Shri Shyam Singh was appointed as a Shovel Operator in Jogta Fire Project of M/s. BCCL, since December, 1982 he is working as Shift Supervisor (Foreman Incharge) at Jogta Fire Project vide office order dated 6/9-12-82. He is continuing to work as Shift Supervisor without any break. Al-

though the concerned workman is working as a Shift Supervisor his designation still continues as Shovel Operator and is being paid wages of Excavation Cat. B. As shift supervisor the concerned workman should have been designated as Shift Supervisor and placed in Grade-A since December, 1982. He made representation before the management for changing of his designation as Shift Supervisor and to be placed in Grade-A since December, 1982 but the management did not concede to his genuine demand. The union also made several representations before the management on behalf of the concerned workman but the same was not considered. Thereafter the union of the concerned workman raised an industrial dispute before the ALC(C), Dhanbad. On failure of the conciliation proceeding the present dispute has been referred to this Tribunal for adjudication. The concerned workman is entitled to be regularised as Shift Supervisor and placed in Grade-A since December, 1982 and he is entitled for difference of wages and other consequential benefits since December, 1982. The demand of the workmen is that the concerned workman should be regularised as shift supervisor in Technical and Supervisory Grade-A.

The case of the management is that the concerned workman has been seeking promotion in the garb of regularisation. The concerned workman does not have the requisite qualification, training and experience for the post of Shift Supervisor in Grade-A. He has been working as Shovel Operator in Excavation Category B from the March, 1983 and does not have 7 years experience even for Group-A of the Excavation work. After the nationalisation of the Coal Mines on 1972 and 1973 M/s. BCCL formulated plans to control fire which is continuing in the mines since before nationalisation. M/s. BCCL has formulated promotional policy for the promotion of excavation workers. The concerned workman does not have requisite qualification for promotion to Shift Supervisor in Grade-A. In a few letters addressed to the concerned workman by the Project Officer, Jogta Fire Project it was stated that the concerned workman managed the shift and acted as Shift Supervisor temporarily. The case of the concerned workman was not considered by the D.P.C. and the concerned workman cannot take advantage of such letter addressed by the Project Officer to the concerned workman. Now there is no excavation work in Jogta Fire Project after the project work completed. There is no provision for the employment of shift supervisor in Technical Grade-A for a shovel operator in Excavation work. The temporary employment of the concerned workman as shift supervisor did not confer any right to the concerned workman for promotion. An employee operating shovel operator cannot be promoted as Supervisor ex-cadre in excavation. When the work of Fire Project has been completed, the concerned workman was transferred from Jogta Fire Project as there is no work for him. The demand of the workmen for regularisation/promotion of the concerned workman as shift supervisor in Grade-A is not justified. On the above facts it is prayed on behalf of the management that it be held that the demand of the workmen for regularisation/promotion of the concerned workman as Shift

Supervisor Grade-A is not justified and he is not entitled to any relief.

The points for decision in this case are (1) whether the concerned workman is working as Shift Supervisor in Technical and Supervisory Grade-A and (2) whether the concerned workman is entitled to be regularised as Shift Supervisor in Grade-A.

The workmen and the management have been examined one witness in support of their respective case. The documents of the workmen have been marked Ext. W-1 to W-4. No document has been filed on behalf of the management.

POINT 1

It is the admitted case of the parties that the concerned workman Shri Shyam Singh was working as Shovel Operator in Excavation Category B, WW-1 Shri Shyam Singh is the concerned workman who has stated that he was working as a Shovel Operator in Jogta Fire Project prior to December, 1982 and as given authorisation to work as Shift Supervisor vide Ext. W-1 dated 6/9-12-82, MW-1 Shri K. S. Sivam is working as Acting Manager of Jogta Fire Project since December, 1982. Presently he is working as acting Manager, Jogta Fire Project. He has stated that since December, 1982 the concerned workman has been continuously working as Shift Supervisor and was incharge in the shift in which he was working as a Shift Supervisor. According to MW-1 from 1984 the concerned workman is not working as a Shift Supervisor and is looking after the job of light vehicle section. Ext. W-1 dated 6/9-12-1982 is the office order issued by the Project Manager of Jogta Fire Project which shows that the concerned workman Shri Shyam Singh is managing shift at Jogta Fire Project because the management was short of Asstt. Foreman to manage the shift and as such the concerned workman was authorised to work as Shift Supervisor till further order. Ext. W-1 is the basis on which the concerned workman is claiming that he should be regularised as Shift Supervisor in Jogta Fire Project. It will appear from Ext. W-1 that as there was shortage of Asstt. Foreman to manage the shift in Jogta Fire Project the concerned workman was authorised to act as Shift Supervisor till further order. It is clear therefore that the authorisation of the concerned workman to act as Supervisor was a temporary arrangement till further order. Ext. W-2 is a duty chart for Sunday work on 26-4-85. It shows that on Sunday the concerned workman Shyam Singh was put in 'C' shift of Jogta Fire Project as Shift Incharge. Ext. W-3 is shift transportation report dated 27-4-85 which shows that the concerned workman had submitted the said report of Jogta Fire Project on 27-4-85. WW-1 has stated that a shift incharge has to prepare shift transportation report and as he was incharge of 'C' shift on 26-4-85 he had submitted the shift transport report. Ext. W-3 dated 27-4-85. Ext. W-3 also bears the signature of Shri R. C. Dixit, Asstt. Colliery Manager. Thus there is absolutely no dispute regarding the fact that the concerned workman was working continuously as Shift Supervisor since December, 1982. The difference in the case of the parties is that according to the workmen the concerned workman was even now continuing as shift supervisor but according to the mana-

gement the concerned workman is not working as Shift Supervisor from 1984 and is looking after the job of light vehicles section.

It will appear from Ext. W-1 itself that as there was shortage of Asstt. Foreman to manage the shift the concerned workman was temporarily authorised to act as Shift Supervisor till further orders. At page 78 of the Central Wage Board Recommendation Volume-I the grading and scale of basic pay of Technical and Supervisory staff is given. It will appear at page 79 of the said report that an Asstt. Foreman Electrical/Mechanical or junior Asstt. Chairman, shift incharge Electrical/mechanical and Asstt. Electrician were designated by the Wage Board as Asstt. Foreman Electrical/Mechanical and were placed in Grade-C. It also provides that Foreman Mechanical were placed in Grade-B and the Foreman Incharge Technical were placed in Grade-A. The concerned workman was admittedly working as Shovel Operator in Excavation Cat. B and was authorised to act as Shift Supervisor as the management of Jogta Fire Project was short of Asstt. Foreman. It is clear therefore that the concerned workman was authorised to act as Shift Supervisor as an Asstt. Foreman. I have already referred to the classification of Asstt. Foreman which has been placed in Grade-C of Technical and Supervisory Grade. It is admitted by WW-1 in his cross-examination that Technical Grade-B and C are lower than those Technical Grade-A and Technical Grade-A is the highest grade. As the concerned workman was working as Shovel Operator prior to the office order Ext. W-1, he was actually placed as Asstt. Foreman to act as Shift Supervisor till further orders and the said post of Asstt. Foreman is the post of Grade-C. Thus the concerned workman while acting as Shift Supervisor in Jogta Fire Project was only Asstt. Foreman of Grade-C.

WW-1 has stated that his name was recommended by the D.P.C. for promotion to Technical and Supervisory Grade-A but he has not produced any paper to show that he was recommended by the D.P.C. for his promotion to Technical and Supervisory Grade-A. He has also admitted that there is no Foreman in Jogta Fire Project under him. MW-1 has stated that the concerned workman had not been recommended for promotion to the post of Shift Supervisory Grade-A by the D.P.C. He has further stated that when a workman satisfies the qualification and experience then he is recommended for promotion by the D.P.C. As there is absolutely no evidence to show that the concerned workman was recommended by the D.P.C. for his promotion to Technical and Supervisory Grade-A, it is apparent that the concerned workman was not working in Technical and Supervisory Grade-A. Moreover when

the concerned workman was first authorised to act as Shift incharge he cannot be given the highest grade-A of Technical and Supervisory Grade when he had no experience and training for the post of Foreman incharge. In the above view of the matter and in view of Ext. W-1 on the basis of which the workmen have placed their case, I hold that the concerned workman while authorised to act as Shift Supervisor was only working as an Asstt. Foreman in Grade-C and not as Foreman Incharge in Technical and Supervisory Grade-A or Foreman in Grade-B.

POINT NO. 2

As held above it will appear that the concerned workman was authorised to work as Shift Supervisor in the capacity of Asstt. Foreman of Grade-C, the concerned workman can claim regularisation only as an Asstt. Foreman in Technical and Supervisory Grade-C. On comparison of the basic scale of pay of Technical and Supervisory Grade staff and excavation category it will appear that the concerned workman was already getting higher wages as Shovel operator in Excavation Grade B and that the wages of Technical and Supervisory Grade-C was lower than the wages of Shovel operator of Excavation Grade-B, and as such there was no question of payment of any difference of wages to the concerned workman during the period he had been authorised to act as Shift Supervisor in the capacity of Asstt. Foreman. Admittedly, the concerned workman as getting higher wages of Shovel operator of Excavation Grade-B and as such there was no question of any further payment to the concerned workman. Although he was working as Asstt. Foreman in a lower scale of wages his wages of Shovel Operator Excavation category B was already protected and there is no case that after he was asked to work as Shift Supervisor his wages were reduced from the wages of Shovel Operator in Excavation Category B. In view of the above I hold that the concerned workman is not entitled to be regularised as Shift supervisor in Grade-A which is a post of Foreman Incharge requiring greater experience and skill.

In the result I hold that the demand of Coal Mines Engineering Workers Association that the management of Jogta Fire Project of M/s. BCCL should regularise their workman Shri Shyam Singh, Shovel Operator as Shift Supervisor in Grade-A is not justified. Accordingly I hold that the concerned workman is entitled to no relief.

This is my Award.

Sd/-

I. N. SINHA, Presiding Officer
[No. L-20012(73)/86-D. III (A)] (TR (Coal-I))

नई दिल्ली 24 नवम्बर, 1989

(iii) in denying regularisation as Work Supervisor of S/Shri S. R. Rabidas and Ali Hussain as from 1979,

is justified? If not, to what relief the workmen concerned are entitled?"

The case of the concerned workmen in respect of item No. 1 of the schedule of reference is that the Central Government's decision to constitute the Central Mines Planning and Design Institute Ltd. (hereinafter referred to as CMPDIL) to meet the requirement of exploration personnel, options were called from among the NCDC Ltd. workmen borne on the headquarters cadre posted at Ranchi. The terms and conditions of options were set out in the circular dated 23rd August, 1974 and 25th November, 1974 read with CMPDIL's circular dated 25th August, 1975. Such of the workmen who exercised options were transferred to CMPDIL. The option and transfer to CMPDIL were subject to specific conditions stipulated in the said circular which provided that the inter-se seniority of the employees of different categories who may be in any posted in CMPDIL based on option will be determined with reference to their position in the existing seniority list as prepared by the NCDC and there was not to be any adverse change in the service conditions of the employees who may exercise option for CMPDIL and finally posted there. It was also stipulated that change in the rules/service conditions will be done in NCDC and not in the CMPDIL and if the CMPDIL desires to introduce any change, they would propose the same to the NCDC and the decision of the NCDC would be applicable to the NCDC and CMPDIL employees simultaneously. The employers having offered the terms and conditions and the workmen having accepted the same, there became a valid contract which could not be altered to the prejudice of the workmen arbitrarily and without their consent. The entire department of geology and drilling/exploration with entire personnel were also transferred to CMPDIL with the same terms and conditions as it they were continuing under NCDC. The confirmed employees temporary and casual workers thus remained transferred and carried their status as then existing in NCDC which were not open to alteration to the prejudice of the workmen. The workmen in CMPDIL are borne on common seniority control & administered centrally by the CMPDIL headquarters. Appointments and promotions are also centrally controlled by the CMPDIL, Ranchi and centrally administered. After option by the workmen and their transfer to CMPDIL the CMPDIL was bound to publish the seniority rating in terms and conditions of option. The CMPDIL was bound to maintain the seniority rating in the same sequence and on the basis of seniority list maintained by the NCDC Ltd. but CMPDIL altered the seniority rating arbitrarily and to the prejudice of the workmen. Every workman has a legal right to know his seniority rating/position in the respective grade and cadres as promotions from grade to grade are based on seniority and/or seniority-cum-merit. On the demand for proper seniority for all Class III and Class IV workmen on 2nd August, 1981 the management agreed to solve the dispute. The existence of the dispute and its seriousness was admitted and was agreed but the management did not take any action and the dispute continued to aggravate. On 15-6-77 a draft seniority list was published. The same was disputed by the workmen. The said dispute was referred for arbitration but the reference lapsed without any award. After the said lapse of the Award the CMPDIL agreed to solve the dispute by setting up a committee. On 29-6-82 CMPDIL issued another draft seniority list inviting objections on which objections were filed. However, neither any decisions were taken on the objections nor any final seniority list was ever published.

In respect of drilling cadre no such draft seniority list was published inspite of repeated reminders. In terms of order dated 7-12-81 it was ordered that the inter-se seniority of the workers to be regularised in each category/designation will be on the basis of initial date of the employee coming into service in the organisation as casual worker. Personal file and service particulars of these workers were to be made upto date as quickly as possible. Although 5 years have lapsed since then, the said order was yet to be implemented and proper seniority list of workmen in drilling cadre are yet to be framed. Non framing of the seniority list as ordered in the order dated 7-12-81 will result in serious deprivation and loss to the workmen of drilling cadre. The continuing

का. प्रा. 3058.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार संयुक्त माहन प्लानिंग एण्ड डिजाइन इन्स्टीट्यूट लि० के प्रबन्ध तंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं० 2) धमबाद के पंचाट का प्रकाशित करती है।

New Delhi, the 24th November, 1989

S.O. 3058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Mine Planning & Design Institute Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 352 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES:

Employers in relation to the management of Central Mine Planning and Design Institute Limited, Godwana Place, Ranchi,

AND
Their workmen.

APPEARANCES:

On behalf of the workmen—Shri Abraham Mathews, General Secretary, National Coal Workers Association.

On behalf of the employers.—Shri S. S. Lahiri, Personnel Manager and Shri B. P. Singh, Personnel Officer.

STATE : Bihar.

INDUSTRY : Mine Planning.

Dhanbad, the 30th October, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24011(3)/86-D.IV(B), dated, the 20th November, 1986.

SCHEDULE

"Whether the action of the management of Central Mine Planning & Design Institute Limited Godwana Place, Ranchi—

- (i) in not promoting and publishing the grade-wise seniority list/rating of all workmen in each grade and cadre as on 31st December, 1974 and as on 31st March each year;
- (ii) in not promoting S/Shri D. Bengra, R. C. Das, Miss Rahil Lakra, N. K. Palit and S/Shri Abbas Ansari and Simen Kujur to the post of Sr. Clerks against Scheduled Castes and Scheduled Tribes quota with effect from 15th March, 1984;

existence of anomalies and disputes over the seniority of workmen in CMPDIL is admitted and it is agreed to be resolved by CMPDIL in terms of their letter dated 3-3-1983 which states that suggestions are requested from the union to resolve the dispute in a manner which will be acceptable to all. Although suggestions were offered by the workmen no further action was taken and the dispute continues. The dispute was also discussed with Director (Technical) on 8-4-83. Consequent upon issue of promotion without framing any rightful seniority there has been illegal supersession of the workmen. Non publishing of seniority as on 31-12-74 and thereafter on 31st of March each year resulted in serious injustice unlawful supersession and deprival of promotions causing serious resentment. It is submitted that CMPDIL management was not justified in not publishing the gradewise seniority list of all workmen in each grade and cadre on 31-12-74 and as on 31st March each year and it is prayed that CMPDIL be directed to publish the seniority as on 31-12-74 and as on 31st March each year.

In respect of item No. 2 of the schedule of the order of reference the case of the workmen is that the action of the management of CMPDIL, in not promoting S/Shri D. Bengra R. C. Das, Miss Rahil Lakra, N. K. Palit and S/Shri Abbas Ansari and Simon Kujur to the post of Sr. Clerk against SC and ST quota with effect from 15-3-84 is not justified. In this respect the case of all the concerned workmen except the case of Shri R. C. Das have already been settled and they have filed their petition not to contest this case and they have already been promoted to the post of Sri. Clerk and no dispute subsists in their case. The case of Shri R. C. Das could not be settled as the demand for promotion with effect from 15-3-84 was not accepted by the management.

Shri R. C. Das is a SC candidate entitled to reservation against quota of reservation for the SC candidate. In terms of the relevant directive of the President of India and Govt. order on reservation the concerned workman Shri R. C. Das is entitled to reservation in both appointment and promotion but no such reservation facility was granted to him. Shri R. C. Das has therefore been deprived of his constitutional and legal right. Had the Presidential directive and Govt. order been observed the concerned workman would have been as promoted in 1983 as Senior to those general candidates promoted in 1982-1983. The JBCCI in their meeting held on 16-1-81 decided that the Presidential directive for reservation of vacancies in respect of promotion to implement in all grades and cadres, Coal India issued necessary orders but the said decision was not implemented. Even assuming that there was no vacancy of Sr. Clerk against carried over quota as required, the concerned workman Shri R. C. Das being a member of SC ought to have been promoted against the 1st point against 110 point roster and he was legally entitled to be promoted as a first candidate of promotion order dated 15-3-84 as Sr. Clerk being senior to Smt. Tapti Dutta. The concerned workman has been superseded by many UDCs on 15-3-84. The seniority of the concerned workman was also altered to his disadvantage by inducting junior employees over him in the seniority list such as B. C. Bhattacharjee and others. On the above facts it has been proved that it may be held that the management of CMPDIL, Ranchi were not justified in not promoting the concerned workman Shri R. C. Das to the post of Sr. Clerk against SC/ST quota with effect from 15-3-84 and that he is entitled to be promoted against reserved quota to SC as prescribed by the Govt. of India in 40 point roster and his seniority should be assigned accordingly with payment of arrear wages and consequential benefits.

The case of the concerned workman in respect of Item No. III of the schedule to the order of reference is that Sitaram Rabidas (in short S. R. Rabidas) is a SC candidate who was the first candidate to have been regularised/appointed as Work Supervisor when CMPDIL filled up the 2 post of work supervisor. S/Shri S. R. Rabidas and Ali Hussain were appointed as Chairman who are actually engaged on duties and responsibilities of work supervisor since November, 1979. In terms of settlement dated 2-8-81 it was agreed that S/Shri Ali Hussain and Sitaram Rabidas, Chairman who were doing the duties and responsibilities of supervisor since November, 1979 shall be granted charge allowance with effect from 9-6-1980 and that in case 2 additional posts are required to be operated henceforth the said post shall be filled in through

normal procedure and a decision on recruitment of post shall be taken by 31-8-81. The concerned workmen were neither paid the charge allowance nor they were regularised although they continued to do the duties of work supervisor. Since 1981 there had been tremendous increase in the construction activities. The concerned workmen continued to shoulder the duties and responsibilities of work supervisor. On the above facts, it has been prayed that an Award be passed that the CMPDIL management was not justified in denying regularisation to the concerned workman as work supervisor from November, 1979 and that the concerned workman are legally entitled to be regularised as work supervisor with retrospective effect from November, 1979 and shall be paid arrears of wages and service benefits arising out of such regularisation.

The case of the management in respect of item No. 1 to the schedule of reference is that there is no stipulation in any enactment relating to industrial workers or the rules of the management whereby the employers are required to promote and publish the gradewise seniority list/rating of all workmen in each grade and cadre as on 31-12-74 and as on 31st March each year. A seniority list has to be prepared and published only when contingency arises and an issue such as that forming part of item No. 1 to the schedule of reference does not constitute an industrial dispute either under Section 2(k) of the I.D. Act or the third schedule of the industrial dispute act. The union had made no such demand in the industrial dispute raised before the conciliation officer. No industrial employer is bound to publish any rating of the workmen in different grades and cadre. The management have been publishing seniority list of workers of different grades and cadres from time to time and no prejudice was caused to the workmen. As the management are not required to promote and publish gradewise seniority list of all workmen in each grade and cadre as on 31-12-74 and as on 31st March each year, it was not possible for the management to accept the said demand. On the above facts it is prayed on behalf of the management that the said demand of the workmen be rejected and it be held that the management is not required to promote and publish the so called gradewise seniority list of rating of all workmen in each grade and cadre as on 31-12-74 and as on 31st March in each year.

The case of the management in respect of item No. 2 of the schedule to the order of reference is that the purported dispute of the sponsoring union as made during the conciliation stage was that the concerned workmen and other being of the same batch of promotees of 8-8-79 be promoted from the said grade as other workmen of the same batch are being promoted. The submission of the workmen before the conciliation officer further was that the concerned workmen were entitled to their seniority in the grade of L.D.C. as per the reservation roster and again on promotion as U.D.Cs as per the roster and that the workmen have been deprived of their rightful seniority both in the grade of L.D.C's and U.D.C's. There was a presidential direction in regard to the reservation to be made in favour of scheduled caste and scheduled tribe candidate in the matter of direct recruitment and also promotions within posts belonging to Grade-B, C and D and for promotion from Grade-B to the higher category in CIL and its subsidiary company. In giving effect to the provision regarding reservation in favour of SC and ST candidate in the matter of promotion it was considered by CIL that the trade union should be consulted because of the provision of Section 9(A) of the I.D. Act. The matter was considered by the management of CIL and the position was explained to the concerned parliamentary committee also. It was indicated that the matter would be placed before the JBCCI is the forum for collective bargaining at the national and industry level between the employers in Coal Industry and the workmen as represented by the different Central trade union. Such collective bargaining included the matters relating to promotion and laying down of promotion policy. The matter was considered by JBCCI in the meeting held on 16-1-81 and it was decided that even in respect of promotions also the provision for reservation in favour of SC and ST candidates should be implemented. But no retrospective implementation of the Presidential direction in regard to promotion was envisaged even at that stage. Even prior to the aforesaid decision of the JBCCI the CMPDIL was giving special consideration to the SC and ST candidates even in the matter of promotion. The reservation for the purpose of promotion was observed as 15

per cent in respect of SC and 7-1/2 per cent in respect of ST candidates.

A selection was made from the post of LDC to the post of UDC in the year 1979 and promotions from the post of LDC to the post of UDC were ordered in August, 1979. The case of 4 SC candidates and 5 ST candidates were considered and promoted which included the name of the concerned workman Shri R. C. Das whose date of appointment as LDC was 3-3-76 and the date of his promotion as UDC was 8-8-79. There was no question of giving promotion to the concerned workman from any earlier date.

When promotions were ordered on the basis of selection made in December, 1983, 34 candidates were promoted in all from the post of UDC to the post of Sr. Clerk. At the time when DPC was held in December, 1983 only one ST and 4 SC candidates fulfilled the conditions of eligibility for consideration for selection according to the then prevailing promotion rules. The then rules provided the 5 years service as UDC or total 8 years service as LDC and UDC of which not less than 3 years should be as UDC. Since the concerned workman Shri R. C. Das did not fulfil the condition eligibility his case was not considered in December, 1983 for his promotion from UDC to the post of Sr. Clerk. All eligible scheduled castes and scheduled tribe candidates were considered and they were selected and promoted but the concerned workman who did not fulfil condition of eligibility was not considered for promotion to the post of Sr. Clerk. There is always time lag between the date on which the DPC was held and the date on which the selected employees are promoted. According to the existing practice the eligibility of the employees for selection for promotion was determined as on the date when the DPC was held. The next selection for the purpose of selecting UDCs for promotion to the post of Sr. Clerk was held on 23-3-85 and 13 UDCs were selected for promotion and promotion order was issued with effect from 8-5-85. On the said occasion 2 SC candidates and one ST candidate were selected and promoted fulfilling their quota. The DPC had not recommended the case of the concerned workman R. C. Das for promotion to the post of Sr. Clerk. However, the concerned workman was promoted vide office order dated 21-3-89 with effect from 7-5-85 giving him the benefit of notional seniority and notional fixation of pay. Thus the case of the concerned workman stand resolved and he cannot have any further grievance. The concerned workman has accepted the promotion and joined the promotional post as Sr. Clerk. On the above facts it is submitted on behalf of the management that they were fully justified in not promoting the concerned workman to the post of Sr. Clerk with effect from 15-3-84 against the quota of SC.

The case of the management in respect of item No. 3 of the schedule to the order of reference is that CMPDIL has only 2 work supervisors in the entire set up which also is superfluous for Civil Engineering works. A cadre of subordinate Civil Engineering staff to be provided for looking after Civil Engineering jobs have been specified by the IBCCI vide implementation instruction No. 33 dated 22-6-80. It provides that there would be engineering Asstt., Sr. Overseer and Overseer with the specific qualification and experience for looking after the Civil Engineering jobs. After the said implementation instruction came into force there is absolutely no question of any other category of workers being employed for supervising the Civil Engineering jobs after 22-6-80. Besides the aforesaid categories of subordinate Civil Engineering Staff the management of CMPDIL has engaged qualified Civil Engineers to look after the Civil Engineering jobs relating to construction and buildings and maintenance thereof. The Civil Engineering work in CMPDIL is very limited as compared to the volume of work involved in the Coal Companies the entire job of construction of building and etc. and maintenance thereof is executed through contractors. The existing 2 work supervisors namely S/Shri Vinod Pd. and B. Mishra are working in the headquarters at Ranchi since December, 1979. The two concerned workmen S/Shri S. R. Rabidas and Ali Hussain have been working as Chainman. There is no question of regularising them as work supervisor from 1979 or from any other date. Even the existing two work supervisor, namely, Shri Vinod Prasad and B. Mishra were placed in the post of Work Supervisor only with effect from December, 1979. As the management does not require any more Work Supervisor, there is no question of regularising the concerned workmen as Work

Supervisor. The concerned workmen have low educational standard and even as Chainman they are juniors to many others.

A circular dated 12-10-78 was issued calling applications from Departmental candidates for selection to the post of Works Supervisor. In terms of the above circular every candidate including the concerned workman Shri S. R. Rabidas applied but the other concerned workman Shri Ali Hussain did not apply. The selection committee held its meeting on 11-12-79 and took interview and test and thereafter recommended the names of 3 candidates out of 11 candidates. The concerned workman Shri Sitaram, Rabidas was not selected as he secured 40 marks only which was below the qualifying marks of 50 which was fixed as qualifying marks. The concerned workman did not perform the duties of work Supervisor and they are neither qualified nor have the experience for performing the duties of supervision of Civil construction work and as such they were neither selected for the post of work supervisor nor they were ordered to carry on the jobs of work supervisor by any competent authority. It has also been submitted by the management that the concerned workman was working as Chainman and the channel of promotion of a Chainman is to the post of Head Chainman and that the concerned workmen have been promoted as Head Chainman with effect from 1989. On the above facts it is prayed on behalf of the management that the action of the management of CMPDIL in denying regularisation of the concerned workman S/Shri S. R. Rabidas and Ali Hussain from 1979 or from any other date as Work Supervisor is justified.

The points for decision in the case are :—

- (1) Whether the management should promote and publish the gradewise seniority list/rating of all workmen in each grade and cadre as on 31-12-74 and as on 31st March each year.
- (2) Whether the concerned workman Shri R. C. Das is entitled to be promoted to the post of Sr. Clerk against SC quota with effect from 15-3-84.
- (3) Whether the concerned workman S/Shri S. R. Rabidas and Ali Hussain are entitled to regularisation as Work Supervisor with effect from 1979.

The workmen have examined three witnesses and the management examined two witness in support of their respective case. The documents of the workmen are marked Ext. W-1 to W-42 and the documents of the management are marked Ext. M-1 to M-13 series.

POINT No. 1

According to the concerned workmen the management should promote and publish the gradewise seniority list/rating of all workmen in each grade and cadre on 31-12-74 and as on 31st March of each year. No evidence has been led by the workmen to show that there was any provision in the I. D. Act or in any order or notification to show that the management was bound to promote and publish the gradewise seniority list of all the workmen in each grade and cadre on 31st March of each year. In fact this issue has not been pressed and instead document have been referred by the workmen to show the procedure of fixation of the seniority of the workmen in each grade and cadre.

Section 7-A of the I. D. Act provides that the appropriate Government may by notification in the official Gazette constitute one or more Industrial Tribunal for the adjudication of industrial dispute relating to any matter whether specified in the second schedule or the 3rd schedule. Thus it will appear that the jurisdiction of a Tribunal to adjudicate cases relates only to the matters specified in the second schedule or the third schedule. The matters within the jurisdiction of Industrial Tribunals under Section 7-A is enumerated in the third schedule of the I. D. Act. None of the 11 items included therein will show that the Tribunal has jurisdiction to decide a matter regarding promotion and publishing the gradewise seniority list of all workmen in each grade and cadre as on 31st March each year. The matter included in item No. 1 of the schedule to the order of reference is beyond matters over which the Tribunal has jurisdiction to decide and adjudicate. The standing orders or the cadre scheme for non executive employees Ext. W-30 also does not show that the management must promote and publish the gradewise seniority list of all workmen on 31st March each year. It appears that realising the fact that the Tribunal has no jurisdiction to decide the matter included in Item No. 1, the union did not specifically adduce any evidence or deal with the said matter in the argument before

me and tried to involve the Tribunal in deciding the matters of seniority which actually was not a matter referred to the Tribunal for adjudication.

The management no doubt is required to maintain and publish the seniority list of all workmen in each grade and cadre but there is no rule or law which makes it obligatory on the part of the management to publish the same each year as on 31st March each year. What is required is that the management must publish the gradewise seniority list as and when required. It appears that the management did publish the said seniority list which was disputed by the workmen. The matter of gradation and seniority may be a matter of dispute but the same could not be covered under Item No. 1 to the schedule of reference.

In view of the above I hold that the action of the management of CMPDIL in not promoting and publishing the gradewise seniority list of all workmen in each grade and cadre as on 31-12-74 and as on 31st March each year cannot be held to be unjustified.

POINT No. 2

I have already stated above that all the concerned workmen except Shri R. C. Das connected with item No. 2 of the schedule of reference have settled the dispute with the management and they have already been promoted to the post of Sr. Clerk. Those workmen had filed petition which forms part of the record stating that as they have already been promoted to the post of Sr. Clerk, no dispute subsists in their case and an order was passed by this Tribunal by the order dated 19th June, 1987. In this respect it will show that a settlement had been arrived at in respect of the 5 concerned workmen of item No. 2 of the schedule of reference and the same was accepted and Award was accordingly passed in respect of the 5 workmen in terms of the memorandum of settlement and thus their case were disposed off but the case of Shri R. C. Das continued. Hence now so far Item No. 2 of the schedule of reference is concerned we have to consider whether the action of the management of C.M.P.D.I.L. in not promoting Shri R. C. Das against SC quota with effect from 15-3-84 is justified.

In this connection we may refer to the evidence of the concerned workman Shri R. C. Das. He has stated that he was appointed as LDC in CMPDIL vide appointment letter Ext. W-1 dated 19-2-76. He has stated that he was promoted to LDC to UDC on 8-8-79 vide office order Ext. W-23 dated 8-8-79. He has stated that he was given the said promotion as general candidate and not in the reserved quota of SC although he belonged to SC being Chambhar by caste. According to him his promotion had not been done in the quota of SC. His position in the promotion list would have been at Sl. No. 14 instead of Sl. No. 29. He has further stated that U.D.C.s were promoted to the post of Sr. Clerk vide office order Ext. W-23 dated 15-3-84 but his name is not included in the said promotion order Ext. W-4. According to him if reservation quota had been considered by promoting UDC to Sr. Clerk vide Ext. W-24 his position would have been at Sl. No. 33 of the Sr. Clerk and he would have been promoted as Sr. Clerk by the said order. He has further stated that out of the list of persons in Ext. M-3 all the 15 persons after Sl. No. 1 are junior to him and he should have been promoted at Sl. No. 2 even if the quota of SC was not considered. He has stated that on 2-5-87 five U.D.C. were promoted to post of Sr. Clerk but even at that time his case for promotion was not considered. His name was recommended by the D.P.C. held on 20-9-86 for promotion from U.D.C. to the post of Sr. Clerk and he was placed at Sl. No. 4. He has also referred to the Article 38 of the Articles of Association of C.M.P.D.I.L. Ext. W-25 by which any direction issued by the President and CIL is applicable to CMPDIL. He has stated that during the pendency of the present reference he was promoted vide office order Ext. W-27 dated 21-3-89 from U.D.C. to Sr. Clerk and he joined the post of Sr. Clerk without prejudice to his claim in the present reference and complaint case No. 2/87. In cross-examination WW-1 has stated that he has been promoted with effect from 7-5-85 as Sr. Clerk vide Ext. W-27. He has stated that Shri D. K. Bose and 14 others were promoted with effect from 7-8-85 as Sr. Clerk. He has further stated that in 1983 D.P.C. was held in respect of the persons who were promoted in 1984 and then he has stated that he does not know as to when the D.P.C. was held. It is admitted by him that he became U.D.C. on 8-8-79 and completed 5 years in U.D.C. in 1984 and he became eligible for promotion from U.D.C. to Sr.

Clark. He had to accept that he would not have been promoted as Sr. Clerk prior to March, 1984. He was unable to produce any paper to show that any D.P.C. was held in 1984 for selection of Sr. Clerks from U.D.C. He also did not know if there was any D.P.C. held for promotion of UDC for the post of Sr. Clerk in 1984. According to the management the persons who had appeared before the D.P.C. in 1983 were promoted in the year 1984 and that no D.P.C. was held in 1984 for promotion of the U.D.C. to the post of Sr. Clerks. The evidence of WW-1 itself will show that he completed 5 years as U.D.C. in the year 1984 and that he could not have been promoted as Sr. Clerk prior to March, 1984. Thus admittedly, the concerned workman was not eligible for consideration for promotion from the post of U.D.C. to the post of Sr. Clerk as he had not completed 5 years of service as U.D.C. in 1983 when the D.P.C. was held for considering the promotion of U.D.C.s to the post of Sr. Clerk. The concerned workman therefore became eligible for being considered for promotion to the post of Sr. Clerk only from March, 1984. There is absolutely no evidence on the record to show that any D.P.C. was held in 1984 for promotion of the U.D.C. to the post of Sr. Clerk. Had it been so the concerned workman must have stated in his evidence as WW-1 that a D.P.C. was held in 1984 and his case was not considered. It is admitted by the management that after 1983 the next D.P.C. was held in 1985 in which 15 persons were promoted from U.D.C. to Sr. Clerk vide order dated 7-5-85 but the name of the concerned workman was not recommended for promotion by the said D.P.C. However, admittedly the concerned workman was considered for promotion to the post of Sr. Clerk vide office order dated 21-3-89 with effect from 7-5-85. WW-1 has accepted that he was promoted with effect from 7-5-85 as Sr. Clerk vide Ext. W-27. The office order Ext. W-27 dated 21-3-79 shows that the concerned workman was promoted to the post of Sr. Clerk and that the promotion order was to take effect from the date he assumes charge of the post of Sr. Clerk but he was to have notional seniority from 7-5-85 i.e. the date his other batch colleague were promoted. The office order further states that his seniority position will be above K. N. Singh and below Shri Indramoni Mishra, Sr. Clerk and that his pay will be notionally fixed with effect from 7-5-85 but he will not get arrears for such pay fixation. It will thus be clear that the concerned workman was given promotion as Sr. Clerk with effect from 7-5-85 which was the date of promotion in respect of 15 persons who had been promoted as Sr. Clerk vide promotion order dated 7-5-85. The seniority of the concerned workman was also maintained in the said seniority list. Thus although the concerned workman was not promoted to the post of Sr. Clerk along with his 15 colleagues vide office order dated 7-5-85 he was subsequently promoted vide office order Ext. W-27 dated 21-3-89 with effect from the date 7-5-85 from which his other 15 colleagues had been promoted to the post of Sr. Clerk. The management also maintained his notional seniority and notional fixation of pay and he only suffered in the payment of arrears of pay of Sr. Clerk as he had not been recommended for promotion by the D.P.C. in the year 1985. Ext. M-1 is the provisional seniority list of the non-executive employees in CMPDIL dated 29-6-82 which shows that the concerned workman Shri R. C. Das junior to Shri K. N. Singh and Indramoni Mishra. Vide Ext. W-27 the concerned workman was placed in the seniority list of Sr. Clerk above Shri K. N. Singh and below Indramoni Mishra. It appears therefore that the concerned workman got his placing above Shri K. N. Singh considering that he belonged to SC Ext. W-26 is the brochure on reservation for SC and ST in service. Para 12.3 of Ext. W-26 deals with promotion on the basis of seniority subject to fitness. At page 85 of Ext. W-26 is the statement showing the percentage and No. of point to be reserved for SC and ST in a 100 point roster where recruitment is made on local regional basis. It will appear from the said appendix that in Bihar the percentage of reservation of SC is 14% and the actual points to be reserved in 100 point roster is 1, 8, 15, 22 and etc. Ext. M-3 is the office order dated 24-4-87 by which K. N. Singh and 15 other U.D. Clerks were promoted to the post of Sr. Clerk. The concerned workman was recommended for promotion from promoted from U.D.C. to the post of Sr. Clerk vide the proceeding of the D.P.C. meeting held on 20-9-86. Ext. M-2 and he was placed at Sl. No. 4 of the recommendation for the post of Sr. Clerk. As I have already stated above that the seniority of K. N. Singh who has been placed at Sl. No. 1 of the promoted Sr. Clerks vide Ext. M-2 was actually senior to Shri R. C. Das as shown in the seniority list Ext. M-1. Ext. M-1 will further show that Indramoni Mishra was just

above Shri K. N. Singh in the seniority list Ext. M-1. Ext. W-27 dated 21-3-89 by which the concerned workman was promoted to the post of Sr. Clerk shows that the concerned workman Shri R. C. Das was placed above Shri K. N. Singh and below Shri Indramoni Mishra. It is therefore clear that the management by placing the concerned workman above Shri K. N. Singh and below Indramoni Mishra did consider the actual point to be reserved to the SC candidate and accordingly in the promotion list of U.D.C. to the post of Sr. Clerk was placed above Shri K. N. Singh who was actual No. 1 in the seniority of Sr. Clerk, in Ext. M-2. I hold therefore that the concerned workman has actually been given his placing in the seniority list of Sr. Clerk as No. 1 in respect of all the promotees to the Sr. Clerks made vide Ext. W-2 considering his placement to be made as SC.

The concerned workman was promoted from LDC to the post of UDC vide office order Ext. W-23 dated 8-8-79. The matter regarding placing of the concerned workman as a SC employee on promotion to the post of U.D.C. was not raised at the relevant time and now it is too late to raise the said question when so many changes must have taken place since 1979. It is therefore too stale and it is not possible to dig the old order of promotion of the concerned workman to the post of U.D.C.

In view of the discussions made above I hold that the concerned workman was not eligible for promotion to the post of Sr. Clerk vide cadre scheme for ministerial staff for the general clerical cadre as stated in Annexure VIII-A of the cadre scheme for non-executive employees as formulated by JBCCI for CCL Ranchi and applicable to CMPDIL at the time when the D.P.C. was held in 1983 for promotion from U.D.C. to Sr. Clerk and the actual posting order was issued on 15-3-84. The concerned workman was eligible for promotion sometime after D.P.C. was held in 1983 and as such the case of the concerned workman could not have been considered for promotion from U.D.C. to the post of Sr. Clerk. I hold therefore that the action of the management of C.M.P.D.I.L. in not promoting the concerned workman Shri R.C. Das to the post of Sr. Clerk against SC quota with effect from 15-3-84 is justified. I may add that the concerned workman was promoted as Sr. Clerk when the next D.P.C. was held and he was placed at Sl. No. 1 of the promotees to the post of Sr. Clerk.

Point No. 3

The next point in issue is whether the concerned workman S/Shri S.R. Rabidas and Ali Hussain are entitled to be regularised as Work Supervisor with effect from 1979.

WW-2 is one of the concerned workman Ali Hussain and WW-3 S.R. Rabidas is the other concerned workman relating to point No. 3. WW-2 Ali Hussain has stated in his evidence that in April, 1975 he was appointed as Chainman in CMPDIL and that from 1977 he was deputed in the supervision of the construction of buildings vide order Ext. W-31. WW-2 has also stated that he was appointed as Chainman in 1975 in CMPDIL and from November, 1977 he was deputed to work as Work Supervisor at the headquarters at Ranchi in building construction and that he used to supervise the work of boundary wall and building construction. He has also stated that Ext. W-31 is the order under the signature of the Superintending Engineer by which the 2 concerned workmen were asked to work as work Supervisor. It appears therefore that Ext. W-31 is an important document on the basis of which the concerned workmen are claiming to have been ordered to work as work supervisor. Ext. W-31 is dated 30-10-79. It will appear that

Superintending Engineer suggested that out of the 3 Chainman 2 may be allotted to assist the engineers on construction sites as this will help them in efficiently supervising the output of the departmental labour and the Chainman will be in a better position. There is an order in the said Ext. by which the 2 concerned workmen S.R. Rabidas and Ali Hussain were directed to report to the Superintending Engineer(C) for the above work. Ext. W-31 does not show that the 2 concerned workmen were appointed as Work Supervisor. They were merely asked to assist the engineers on construction sites so that the engineer may efficiently supervise the output of the departmental labour. It is clear therefore that there is no specific order given to the concerned workman stating that they were appointed as work supervisor temporarily or that they were to do the duties of work supervisor. Ext. W-22 is an order dated 4-6-88 by which Ali Hussain and 2 others who were posted at the building construction site were directed to make their attendance in the Attendance Register kept at CI building site office with effect from 5-6-88. Ext. W-33 dated 10-2-83 is an office memo directing the concerned workman Ali Hussain and others that their leave application should come through the concerned Sr. Overseer/Work Supervisor. There is no mention in this office order that Ali Hussain was working as Work Supervisor. Ext. W-35 dated 30-11-79 described Shri S. R. Rabidas as Chairman. WW-2 has stated that the minimum qualification for Work Supervisor is matriculate and that admittedly he is not a matriculate. He had not previously worked as Billing clerk in the survey department and had prepared muster roll in connection with civil construction. He has admitted that Binod Pd. and B. Mishra were senior to him. He had received transfer order for Barkakana but he was not shown to have been posted there as Work Supervisor and that his designation noted therein is that of Chainman. He has also stated that according to the cadre scheme a Chainman is promoted to Head Chainman and that in March, 1989 he had been promoted as Head Chainman and he is working as such since then he has also stated that the promotion from Chainman to Head Chainman was done through D.P.C. and that according to the recommendation of the D.P.C. he was promoted as Head Chainman and he accepted the promotion of Head Chainman. Towards the end of his cross-examination WW-2 has stated that as no letter of work Supervisor was issued to him he was not called for interview at the time B. Mishra and others were called for interview and selected as Work Supervisor. WW-3 is Shri S.R. Rabidas. He has admitted that he was interviewed along with Shri B. Mishra and B. Pd for work Supervisor. He is also a non-matric and has not passed matriculation. He has admitted that his case was not considered for the post of Work Supervisor in the quota of SG. It will appear from Ext. W-34 that WW-3 had filed an application for the post of Work Supervisor to the Regional Director IMPDI and interview letter Ext. W-35 was issued to him. He has further stated that in 1984 the management had invited application for the post of Work Supervisor and he had filed an application Ext. W-36 for the same. In cross-examination WW-3 has stated that he was

first appointed as Chainman. He admits that the grade of work supervisor and Chainman are different and their work is also different. It was suggested to him that he was being deputed to work as Work supervisor occasionally to which he has denied. He has admitted that he was also promoted as Head Chainman on 14-9-89 through D.P.C. He has stated that he had appeared in the interview before the D.P.C. once for the post of Work Supervisor but he was not selected. It will thus be clear from the evidence of WW-3 that he was called by the D.P.C. for being considered for selection to the post of Work Supervisor but admittedly he was not selected. So far WW-2 Ali Hussain is concerned he had appeared for selection to the post of Work Supervisor and as such he cannot claim to be selected for the post of Work Supervisor.

The cadre scheme for non-executive employees Ext. W-30 in Annexure A V deals with the cadre scheme for mining Survey personnel. It will appear from the said cadre scheme that promotion from Survey Mazdoor Cat. I is made to the post of Chainman in Technical Grade-F and promotion of a Chainman is to the post of Head Chainman in Technical Grade-E. As admittedly the concerned workmen were appointed as Chainman their chain of promotion was to the post of Head Chainman vide cadre scheme for Mining Survey Personnel and hence accordingly the two concerned workmen have now been promoted in their cadre as Head Chainman. So far the post of Work Supervisor is concerned the said post has been abolished from the cadre scheme for Mining Survey Personnel. Since 1980 the post of Work Supervisor has been abolished and now the concerned workmen could not have been promoted/regularised to the post of work supervisor. The two other personnels namely Binod Pd and Shri B. Mishra were regularised as Work Supervisor since 1979 as they were working as Work Supervisor after a D.P.C. was held for the said purpose. The concerned workman Ali Hussain had not appeared before the said selection committee and the concerned workman S. R. Rabidas who appear before the Selection Committee was not selected for the post of Work Supervisor. Thereafter, as there was no post of Work Supervisor in the cadre scheme, the concerned workman cannot claim to be regularised or promoted to the post which does not exist. Moreover, he concerned workmen belonged to the Mining Survey Personnel cadre and they could not have been promoted to the post of Work Supervisor and they could have only been selected by the selection committee for the post of work Supervisor. It appears therefore that the management promoted the concerned workman in their own cadre from the post of Chainman to the post of Head Chainman.

The management also examined MW-1 Shri Sansikaat Executive Engineer, CMPDIL, Ranchi under whom admittedly the concerned workman had worked, MW-1 has stated that the two concerned workmen were working as Chainman and were promoted as Head Chainman. He has stated that the two concerned workman were working under him and as Head Chainman they are presently doing the said job which they were working as Chainman. He has no doubt stated that sometimes

he used to put them on the job to see if the mixture of concrete cement sand and chips ratio were carried out or not whenever there was no overseer. He had sometimes taken the said work from the concerned workmen and as such an occasional work cannot be the criteria for regularising the workmen to the post whose nature of job is of different cadre. He has stated that the appointment of Work Supervisory is through selection committee. The Supervisory is through selection that a D.P.C. was held for selection of Work Supervisor is not actually correct in the sense that ex-cadre appointment are made through selection committee and the case of promotion is considered by the D.P.C. which facts also find admitted from the evidence of WW-1 at page-5 of his deposition. There is nothing in the cross-examination to falsify the evidence of MW-1. MW-2 Shri B.P. Singh is a Personnel officer posted at MPDIL headquarters. He has proved the photo copies of work order Ext. M-13 and M-13/1 which document are not of much importance for the decision of the matter in dispute.

In view of the evidence discussed above I hold that the action of the management of CMPDIL in denying regularisation to the concerned workman Shri S.R. Rabidas and Ali Hussain as Work Supervisor from 1979 is justified.

Award is passed accordingly.

I. N. SINHA, Presiding Officer.

[No. L-24011(3) [86.D-(B)] IR(Coal-I)]

का० आ० 3059-—औद्योगिक विवाद अधिनियम 1947 (1949 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सी० एम० पी० डी० आई० सेन्ट्रल स्टोर बरकाकाना (हजारीबाग) के प्रबंधन से सम्बद्ध नियोजकों और उनके कामकाजों के बीच अनुबंध में निहित औद्योगिक विवाद से केन्द्रीय सरकार औद्योगिक अधिकरण, (श० 27, धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial disputes between the employers in relation to the management of C.M.P.D.I.L., Central Stores, Barkakana, Hazaribagh and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

Reference No. 220 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of C.M.P.D.I.L., Central Store, Barkakana (Hazaribagh) and their workmen.

APPEARANCES :

On behalf of the workmen : Shri Abraham Mathews, Secretary, Koyala Mazdoor Union.

On behalf of the employers : Shri B. P. Singh, Personnel Officer, C.M.P.D.I.L.

STAFF : Bihar. INDUSTRY : Mine Planning.

Dated, the 23rd October, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this

Tribunal for adjudication vide their Order No. L-24012(190)/86-D.IV(B), dated, the 3rd August, 1987.

SCHEDULE

"Whether the action of the management of C.M.P.D.I.L., Central Store Barkakana, P.O. Barakakana, Distt. Hazaribagh in superseding S/Shri S.D.P. Karan and M. K. Singh, Store Keepers in disregard to their seniority is legal and justified? If not, to what relief the concerned workmen are entitled?"

The case of the workmen is that the concerned workmen S/Shri S.D.P. Karan and M. K. Singh were appointed as daily rated worker from 3-6-74. They were regularised in Cat. I with effect from 24-12-76 in CMPDIL Central Stores Barkakana Shri A. Mukherjee and Md. Ibrahim were appointed in April, 1977. The two concerned workmen and Shri A. Mukherjee and Md. Ibrahim were promoted as Asstt. Store Keeper in October, 1978. A committee was constituted of 4 members for regularisation of casual workers of the CMPDIL Drilling State Barakankana in 1978. A list was provided to the said committee whose cases were to be considered for regularisation by the said committee. On 16-9-78 the two concerned workmen along with Shri A. Mukherjee and Md. Ibrahim were interviewed and a panel for Asstt. Storekeeper was constituted of all those 4 persons and thereafter all the 4 were regularised as Asstt. Store Keeper. In March, 1983 Shri A. Mukherjee, Md. Ibrahim and the concerned workman Shri S.D.P. Karan were promoted as Store Keeper but the other concerned workman Shri M. K. Singh was not promoted as Storekeeper along with them. However, in March, 1984 the concerned workman Shri M. K. Singh was promoted as Store keeper. The two concerned workmen are senior to S/Shri A. Mukherjee and Md. Ibrahim by about 3 years as the concerned workmen were first appointed with effect from 3-6-74 and the two other persons named above were first appointed in April, 1977. The concerned workmen represented to the Director (Technical) C.M.P.D.I.L., Ranchi vide representation dated 20-3-86 for appropriate seniority but no action was taken. Earlier on the representation of the workmen the Material Manager, Central Stores in terms of his note dated 28-2-86 stated that the two concerned workmen who are now Store keeper were daily rated workers from 24-12-76 whereas S/Shri Ibrahim and A. Mukherjee were casual workers and requested the higher management to examine the matter to remove the anomalies. Vide letter dated 29-5-86 a demand for appropriate seniority to the concerned workmen was made on the Chairman/Managing Director but no action was taken on the said letter. Thereafter the workers union raised an industrial dispute on 2-8-78 demanding regularisation of all casual workmen with retrospective effect on the basis of nature of job on which each of them were employed. A settlement was arrived at in the said dispute before the RLC(C), Dhanbad vide settlement dated 8-6-81. It was agreed by the said mutual settlement that inter se seniority of the workers in each category/cadre shall be on the basis of initial date of the employee coming to service as casual workers. On complaint against non-implementation of the said settlement dated 8-6-81, the Central Government directed the C.M.P.D.I.L. to implement the same. Thereafter in compliance of the Government order the employers issued implementation order dated 7-12-81 enclosing therewith the detailed administrative instruction for placement of workmen on NCWA-II pay scales along with the list of workmen to be so regularised. The said order specifically stipulates that the inter se seniority of the workers should be regularised as indicated above in each category/designation on the basis of the initial date of the employees coming into service in the organisation as casual workers. In accordance with the said settlement dated 8-6-81 and the implementation order dated 7-12-81 the seniority position of the concerned workmen and 2 others who were promoted as Asstt. Storekeeper should be as follows:—

1. Shri S. D. P. Karan.
2. Shri M. K. Singh.
3. Shri A. Mukherjee.
4. Shri Md. Ibrahim.

In view of the valid subsisting settlement and orders referred to above no other seniority position can hold good.

The concerned two workmen were placed in Cat. I on 24-12-76 when S/Shri A. Mukherjee and Md. Ibrahim were not in employment. The concerned workmen were entrusted with the duties and responsibilities of Asstt. Storekeeper while they were in Cat. I and the concerned workmen were legally entitled to be regularised as Asstt. Storekeeper with effect from 3-6-74. S/Shri A. Mukherjee and Md. Ibrahim did not acquire that position on or before April, 1977. All the above named workmen were placed as regular Asstt. Storekeeper with effect from 12-10-78. S/Shri A. Mukherjee and Md. Ibrahim being casual workers could not be made seniors to the concerned workmen under any rules. The action of the management conferring seniority to S/Shri A. Mukherjee and Md. Ibrahim above the concerned workmen are arbitrary, mala-fide and untenable.

In the Stores Personnel cadre, the entry post is of Store issue clerk in Clerical Grade-III. The Asstt. Store keeper and Storekeeper post are promotional posts. The promotion to the post of Asstt. Storekeeper and Storekeeper are to be based on seniority by D.P.C. recommendation. As the concerned workmen were discharging the duties and responsibilities of Asstt. Storekeeper from the initial date of engagement as casual workers, it was a question of regularisation. In view of the promotional rules S/Shri A. Mukherjee and M. Ibrahim cannot be conferred seniority over the concerned workmen. It was admitted by the management in writing in terms of their letter dated 5-7-86 that the two concerned workmen are seniors to S/Shri A. Mukherjee and Md. Ibrahim as such the provision of the settlement, dated 8-6-81, and implementation order dated 7-12-81 are clearly attracted and is to govern the fixation of seniority. The concerned workmen having been regularised as Asstt. Storekeeper on and from 12-10-78, they cannot be denied of the seniority from their respective initial date of their coming into service in the organisation as casual worker. On the above facts it is prayed that it may be held that the action of the management of C.M.P.D.I.L. in superseding the concerned workmen in disregard to their seniority is illegal arbitrary and void and that they are entitled to seniority with effect from their initial date of engagement as casual workers for doing duties and responsibilities of Asstt. Storekeeper and accordingly seniority in the grade of Asstt. Storekeeper as well as in Storekeeper above that of S/Shri A. Mukherjee and Md. Ibrahim and also that they are entitled to the promotion as Senior Storekeeper and from the date on which Shri Mukherjee and Md. Ibrahim were arbitrarily promoted.

The case of the management is that CMPDIL has a system of entertaining casual workers from time to time for discharging duties of different posts in different sections. The system was introduced because of the uncertain state of workers and the fact that the requirement of workers in most cases were purely temporary. The drilling camps which are essentially temporary are shifted from time to time. The C.M.P.D.I.L. was formed in 1974 with a nucleus of workers from the erstwhile NCDC Ltd. and the said NCDC had also such system. The planning wing and the geology and the drilling division of the erstwhile NCDC were taken over by C.M.P.D.I.L. after its formation in 1974 and thereafter the C.M.P.D.I.L. built up its own organisational structure and started development activities in regard to the planning of coal mining projects and exploration works involving drilling operations and geological survey works for all the subsidiaries company of CIL in the different states. Over the years a system has evolved whereby the casual workers who have worked for sometime in different jobs and in different departments and who have acquired some skill and experience in the jobs of particular department are considered for selection for higher post on regular basis through the process of selection conducted by the Selection Committee as and when vacancies arise.

In the case of Stores cadre relating to material handling work the lower post at the relevant time i.e. in 1978 was that of Asstt. Storekeeper in Clerical Grade-II. The next higher post in hereby were Storekeeper in Clerical Grade-I, Sr. Storekeeper in Clerical Grade special and Chief Storekeeper in Technical and Supervisory Grade-A. In 1978

4 posts of Asstt. Storekeeper were created in the drilling section of C.M.P.D.I.L. at Barkakana. The casual workers working in the said stores who had put in some service as casual workers were interviewed for the post of Asstt. Storekeeper and a selection was made. While selecting the candidates their educational qualification, previous experience in stores, extra curricular activities and performance in the interview/test were taken into account. On this basis selection list was prepared in order of merit by the selection committee. The selection committee fixed up the marks of the candidates based upon the merit. Shri A. Mukherjee was allotted total marks of 61, Md. Ibrahim 59, the concerned workman S.D.P. Karan, 58 and M. K. Singh 57 marks. They were issued with appointment letters as Asstt. Storekeeper on 6-10-78 and after accepting the same they assumed charge of Asstt. Storekeeper with effect from 12-10-78. Their seniority stood in the same order of merit as fixed by the selection committee on the basis of marks.

Subsequently there was a selection to the post of Storekeeper in 1983 and S/Shri A. Mukherjee and Md. Ibrahim and S. D. P. Karan were selected and promoted to the post of Storekeeper with effect from 15-3-83. Their interse seniority in the post of Storekeeper remained as before when they were holding the post of Asstt. Storekeeper. There was another vacancy in 1984 and the concerned workman Shri M. K. Singh was selected at that time and was promoted to the post of Storekeeper with effect from 15-3-84.

There was no rule at any time that casual workers would automatically be promoted to higher post merely based on their length of service or seniority. The selection was always made on the basis of merit. S/Shri A. Mukherjee and Md. Ibrahim had passed Intermediate exam, while the concerned workmen were only matriculations. The claim of the concerned workmen that they should have been considered senior to S/Shri A. Mukherjee and Md. Ibrahim merely because they worked as casual workers for a longer period is untenable and it has no merit in the light of the facts of the case. The post of Asstt. Storekeeper constituted the lowest step of the ladder in the Store cadre at the relevant time and there was no promotional channel to the post of Asstt. Storekeeper. The criteria adopted by the selection committee was not only objective but logical and it kept in view the well recognised principles of selection. The basis adopted by the selection committee cannot be questioned. There is absolutely no question of making selection to the post of Asstt. Storekeeper on the basis of seniority-cum-merit as it was not in any promotional channel at the relevant time. However, selection from the post of Asstt. Storekeeper to the post of Storekeeper was made on the basis of seniority-cum-merit.

The JBCCI through the promotion policy finalised the promotion rules for a number of categories of employees which included the promotional rules for employees of the Store cadres. The said rules are covered by implementation instruction No. 34 dated 17-7-84. The committee included a new post of Store Issue Clerk in Clerical Grade-III for the first time below the post of Asstt. Storekeeper and it has laid down that the appointment to the post of Store Issue Clerk in Clerical Grade-III will be made on the basis of selection/test. In the case of the next higher post the committee laid down that the selection will be made through D.P.C. The criteria for selection upto the post of Storekeeper would be on the basis of seniority-cum-merit and for higher post on merit-cum-seniority. The claim of the concerned workman that they have been superseded by S/Shri A. Mukherjee and Md. Ibrahim is wholly unwarranted and is aware from the actual position. On the above facts it is prayed that the claim of the workmen be rejected and the reference be answered in favour of the management.

The points for decision are (1) whether the management of C.M.P.D.I.L. have superseded the concerned workmen S/Shri S. D. P. Karan and M. K. Singh Storekeepers disregarding their seniority and (2) whether the two concerned workmen are senior to S/Shri A. Mukherjee and Md. Ibrahim.

The management and the workmen each examined two witnesses in support of their respective case. The documents

of the management have been marked Ext. M-1 to M-6 and the documents of the workmen have been marked Ext. W-1 to W-12.

Point Nos. 1 and 2

These two points are taken up together as they are interconnected.

Admittedly the concerned workmen had joined as casual workers on 3-7-74 and both were placed in Cat. I with effect from 24-12-76. The workmen have taken the case of S/Shri A. Mukherjee and Md. Ibrahim to show that although the two concerned workmen were senior to them the management have accepted Shri A. Mukherjee and Md. Ibrahim as their seniors and accordingly promoted and placed them in higher position. It is admitted case of the parties that S/Shri A. Mukherjee and Md. Ibrahim were appointed first in C.M.P.D.I.L. in April, 1977 as such it will appear that S/Shri A. Mukherjee and Md. Ibrahim have admittedly joined 3 years after the concerned workmen.

It will appear from the implementation instruction No. 34 dated 17-7-84 of NCWA-III that cadre scheme for stores personnel was finalised. Annexure VIII-2 is in respect of Stores personnel cadre which will show that Store Issue Clerk was the lowest post in the Stores personnel cadre and thereafter there was the post of Asstt. Storekeeper, Storekeeper and Sr. Storekeeper. There was no post of Store Issue Clerk in the stores personnel prior to the finalisation of the cadre scheme for stores personnel. Thus the post of Asstt. Storekeeper was the lowest post in the Stores cadre. It will appear from the case of the parties that the concerned workmen as well as S/Shri A. Mukherjee and Md. Ibrahim were all working in the stores department but were not designated as Asstt. Storekeeper prior to their selection as such by the selection committee in 1978. The concerned workmen as well as Shri A. Mukherjee and Md. Ibrahim were all working as Mazdoor in Cat. I although the two concerned workmen had also permanently been placed in Cat. I There was no post of Cat. I Mazdoor in the Stores cadre as such it will appear that in 1978 the case of the concerned workmen and S/Shri A. Mukherjee and Md. Ibrahim was being considered by the selection committee not for their promotion to the post of Asstt. Storekeeper but for their regularisation to the post of Asstt. Storekeeper as admittedly all of them were doing some of the jobs of Asstt. Storekeeper.

Ext. M-1 is a notesheet of the selection committee which had held the interview of the candidates on 16-9-78. It will show that the committee was constituted for regularisation of casual workers of the C.M.P.D.I.L. of Drilling Stores Barkakana and the list included both Cat. I and daily rated workers who were working against the post of Asstt. Storekeeper. MW-1 Shri R. A. Guin, Finance Officer and MW-2 Shri B. N. Dhir, Sr. Deputy Drilling Supdt. have been examined on behalf of the management who were two of the members of the selection committee out of the 4 members of the selection committee which had held interview and test of the two concerned workmen and S/Shri A. Mukherjee and Md. Ibrahim on 16-9-78. It will appear from their evidence as well as from Ext. M-1 that a panel for the post of Asstt. Storekeeper was prepared and their seniority was given on the basis of the total marks obtained by them. It shows that Shri A. Mukherjee obtained 61 marks, Md. Ibrahim obtained 59 marks, S.D.P. Karan obtained 58 marks and M. K. Singh obtained 57 marks and accordingly their seniority was fixed. The said list was approved by Shri S. K. Mukherjee, the then Regional Director, C.M.P.D.I.L. Ranchi and his note of approval is marked as Ext. M-3 on the report of the said selection committee. MW-1 has stated that he was one of the members of the selection committee from Financial side for selection to the post of Asstt. Storekeeper. He has also named the other three names of the members of the selection committee. He has stated that criteria fixed by the committee was educational qualification, experience, performance in the interview and extra curricular activities and that the candidates were marked on the basis of their performance and educational qualification etc. and the seniority of the candidates was assessed by them on the marks obtained by the candidates. He has also stated that no

objection was raised by any of the candidates at the time the committee was considering the case of the 4 employees. He has stated that the names of the candidates for selection was sent to them by the management in respect of which they considered the case. In cross-examination he has stated that in case of open selection there is no question for consideration of seniority of the casual and regular workman. He has also stated that they had followed the prevailing rules and procedure of selection. As such it is quite natural that they had not considered the case at the time of the selection the matters of the rules which were subsequently framed or came into existence. MW-2 has also stated that the seniority of the candidates was decided by them on the basis of higher marks obtained by them. He has stated that the said interview was held for consideration of regularisation of the candidates for the post of Asstt. Storekeeper. In cross-examination he has stated that in 1974 Shri M. K. Singh and S.D.P. Karan were appointed as casual workmen for doing the work of Asstt. Storekeeper but he was unable to say as to when Shri A. Mukherjee was employed as casual Asstt. Storekeeper. He has further stated that Shri A. Mukherjee and Md. Ibrahim were working as casual Storekeeper at the time of interview held by them. There is nothing to falsify the evidence of MW-1 and MW-2 or to show that any irregularity was committed in the selection of the candidates for the post of Asstt. Storekeeper or that there was anything wrong in the marking of the candidates by the selection committee on the basis of which their merit position was declared by the selection committee.

The workmen have based their case on the settlement Ext. W-8 dated 8-6-81 to show that all the workmen listed in the annexure A and B to this settlement and verified to have been working on stores duty shall be regularised as Asstt. Storekeeper in Clerical Grade-II scale of NCWA-II with effect from 1-1-1979 if not already placed in the grade on or before 31-12-78 subject to availability of vacancies. It was agreed by the said settlement that inter se seniority of the workers listed in Annexure A and B in each category/cadre shall be on the basis of the initial date of the employee coming to service as casual worker. As already stated above it will appear that this settlement was arrived at on 8-6-81 but the two concerned workmen and S/Shri A. Mukherjee and Md. Ibrahim were all appointed as Asstt. Storekeeper vide appointment letters Ext. M-2 to M-2/3 dated 6-10-78. It will appear from the note sheet of the selection committee Ext. M-1 and the evidence of the management witnesses that the selection committee had selected S/Shri A. Mukherjee, Md. Ibrahim, S.D.P. Karan and M. K. Singh and had given them seniority in accordance with the marks obtained by them. I have already discussed above that all of them were regularised as Asstt. Storekeeper after holding interview by the departmental selection committee on 16-9-78 and prior to that they were Cat. I mazdoor. I have also discussed that the selection of the above 4 persons was not a promotion and that it was their regularisation to the post of Asstt. Storekeeper and thus it was a re-categorisation of all 4 of them as Asstt. Storekeeper from the post of Cat. I Mazdoor by selection. As it was a case of regularisation and re-categorisation of the 4 persons named above, there was no question of placing them Asstt. Storekeeper on the basis of their seniority as selection was their regularisation to the post of Asstt. Storekeeper and they were selected to the post of Asstt. Storekeeper there was no cadre scheme existing at that time. The settlement made in Ext. M-8 also was arrived at on 8-6-81 which was about 3 years after the regularisation of the concerned workmen and 2 others in 1978. As there was no settlement rule or procedure in 1978 that inter se seniority of the workers shall be on the basis of the initial date of the employer coming into service, I do not think that the placing of the 4 persons named above as Asstt. Storekeeper on the basis of the merit was illegal or against the provision of the rule of the management. Ext. W-1 is an administrative instruction for placement in NCWA-II pay scales issued by C.M.P.D.I.L. and this is an enclosure to letter dated 7-12-81. This administrative instruction was also of a period much after the selection of the concerned workmen and 2 others to the post of Asstt. Storekeeper and as such these instructions cannot undo what has been done prior to the issuance of the said letter. The management has made

a decision very much clear in their letter Ext. W-11 dated 5-7-86 written by the Personnel Manager to the Secretary Koyala Mazdoor Union. Thus the very sheet anchor of the concerned workman that the seniority inter se has to be fixed on the basis of initial date of employee coming to service as casual worker cannot hold good in respect of the concerned workman and 2 others who had already been appointed and selected to work as Asstt. Storekeeper in the year 1978 as their selection was not based on promotion and it was an ex-cadre selection, the management was quite justified in selecting the four persons on merit.

On the basis of the said seniority and when the cadre for the stores came into operation, a D.P.C. was held in the year 1982 for the promotion of Asstt. Storekeeper to Storekeeper and in the said D.P.C. S/Shri A. Mukherjee, Md. Ibrahim and Shri S.D.P. Karan were promoted as Storekeeper to fill up the existing vacancy and as there was no further vacancy the concerned workman Shri M. K. Singh could be promoted as Storekeeper at that time and he was promoted subsequently in March, 1984 when vacancy occurred after a D.P.C. was held in December, 1983 for promotion from Asstt. Storekeeper to the post of Storekeeper. It appears therefore that the management had adhered to the seniority of the Asstt. Storekeeper which was fixed by the selection committee in 1978 and on the basis of the seniority of the Asstt. Storekeeper three of them were promoted to the post of Storekeeper and the concerned workman Shri M. K. Singh who was 4th in the seniority was subsequently promoted in 1984 after D.P.C. was held for filling up the further post of Storekeeper by promotion from the post of Asstt. Storekeeper.

In view of the above discussions I hold that the management of C.M.P.D.I.L. did not supersede the concerned workmen S/Shri S.D.P. Karan and M. K. Singh, Storekeeper disregarding their seniority. I further hold that the two concerned workmen S/Shri S.D.P. Karan and M. K. Singh were not seniors in the post of Asstt. Storekeeper to S/Shri A. Mukherjee and Md. Ibrahim.

In the result, I hold that the action of the management of C.M.P.D.I.L., Central Stores Barkakana was not an act of supersession of the 2 concerned workmen S/Shri S.D.P. Karan and M. K. Singh, Storekeeper in disregard to their seniority and accordingly it cannot be held that the action of the management of C.M.P.D.I.L. was unjustified. Accordingly the concerned workmen are entitled to no relief.

This is my Award.

Sd/-

I. N. SINHA, Presiding Officer

[No. L-24012(190)/86-D.IV(B)/IR(Coal-I)]

कलश 3060.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में केंद्रीय सरकार, मेमर्स भारत कोकिंग कोल लि. का गोविन्दपुर क्षेत्र नं. 3 के प्रबन्धन से सम्बद्ध निरीक्षकों और उनके कर्मचारियों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद के केंद्रीय सरकार औद्योगिक अधीकरण (सं. 2), धनबाद के पंचाट को प्रकाशित करती है।

S.O. 3060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Govindpur Area No. 3 of M/s. Bharat Coking Coal Ltd. and their workmen.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT

DHANBAD

REFERENCE NO. 44 OF 1988

In the matter of an industrial dispute under Section
10(1)(d) of the I.D. Act., 1947

PARTIES :

Employers in relation to the management of
Govindpur Area No. III of M/s. Bharat
Coking Coal Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri O. P. Verma,
Advocate.

On behalf of the employers—Shri B. Joshi,
Advocate.

STATE : Bihar.

INDUSTRY : Coal

Dhanbad, the 3rd November, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Sections 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(110)/87-D.IV(B), dated, the 2nd March, 1988.

THE SCHEDULE

"Whether the demand of the workman/union that Shri Deo Bhusan Tiwari, Driver should be regularised/promoted on the post of Asstt. Foreman/Auto Supervisor by the Management of Govindpur Area No. III of M/s. B.C.C. Ltd., is justified? If so, to what relief the workman is entitled and from which date?"

The case of the workmen is that the concerned workman Shri Deo Bhusan Tiwari was appointed as Heavy Vehicle Driver in Cat V at Govindpur colliery. Prior to that he had worked for over 15 years as driver in Regular Military service and had operated both light and heavy vehicles during his service in Army from 17-5-68 to 30-5-83. After completing 15 years of military service he voluntarily retired and joined as Heavy Vehicle Driver in BCCL in 1983. Due to the past experience of the concerned workman, the management of M/s. BCCL placed him in the Automobile workshop at Sinidih at Area No. III. In 1984 the concerned workman was offered to supervise the automobile workshop which was newly started by M/s. BCCL for maintenance of the vehicle. The concerned workman worked as automobile supervisor for a period of more than 4 years with success. The Manager, Transportation duly appreciated his work of Automobile supervisor in respect of repairing of vehicles and maintenance of various records of the automobile workshop. The then Transport Manager of Govindpur Area No. III Shri H.M.P. Verma

issued a letter to the General Manager, Govindpur Area appreciating his work as Automobile Supervisor vide letter dated 4-10-85. The concerned workman placed his genuine demand of regularisation in the post of Automobile Supervisor before the management through his union. On 18-4-86 the union of the concerned workman represented the matter before the management which was included in the minutes of discussion on 26-7-86. But the management did not regularise the concerned workman as work Supervisor. Thereafter on 4-9-86 the union raised an industrial dispute before the ALC(C), Dhanbad in respect of regularisation of the concerned workman. The management participated in the conciliation proceeding before the ALC(C), Dhanbad. On failure of the conciliation and on receipt of the failure report the Govt. in the Ministry of Labour referred the present dispute for adjudication. It is submitted on behalf of the workmen that the concerned workman should be regularised in the post of Asstt. Foreman from the date of assigning of the job of Automobile Supervisor with effect from 10-9-84. On the above facts it is prayed that the concerned workman be regularised to the post of Asstt. Foreman in Tech. & Supervisory grade-C with back wages with effect from 10-9-84.

The case of the management is that the concerned workman was working as a Driver of Truck/Car at Govindpur colliery prior to his transfer at Auto Workshop under the Transport Manager of Govindpur Area on 7-9-84. The concerned workman was placed in Cat.V in the time rated scale under NCWA-III. The construction and installation work of the workshop started in September, 1984 and in November/December, 1984 the said automobile workshop started functioning. The strength of the employees in the automobile workshop was 11 only and was placed under the supervision and control of the Transport Manager. There was no necessity of posting of Asstt. Foreman and Foreman at the workshop considering the extent of work and total manpower working in the workshop. The Transport Manager was required to exercise control and supervision of the workshop. There was very less amount of job of Driver at the automobile workshop and as such the concerned workman was given some alternative job by the Transport Manager without prior information or sanction from the competent authority and he gave certificate to that effect on the strength of which the concerned workman is claiming for the post of Asstt. Foreman. A workman must possess Diploma in automobile engineering to enable him to hold the supervisor post in an automobile workshop, or he must be good and experienced mechanic for repairing and maintenance of automobile machineries, vehicles and equipments. The concerned workman is a Driver and does not possess the requisite qualification or experience to be in a supervisory post of Asstt. Foreman or Foreman. A driver, no doubt, can do certain repairing and maintenance job of vehicles but the extent of repairing and maintenance cannot be the same as that of a Mechanic, Asstt. Foreman or Foreman. A driver in Cat. V must first be promoted to Cat. VI and then to the post of Mechanic and thereafter he may be promoted to some Supervisory post. A driver by doing some clerical duties such as of taking attendance of 10 to 12 persons and receiving materials from Stores and bringing them in vehicle cannot be

to be a Asstt. Foreman. The Transport Manager had made an attempt to get the concerned workman promoted as Asstt. Foreman by floating a notesheet without properly realising the issue involved as the acceptance of his note would have jeopardised some workmen due to the failures to observe the rules and regulation of the management. On the above facts it is prayed on behalf of the management that the concerned workman is not entitled to any relief and an Award be passed accordingly.

The points for determination in the case are :—

- (1) Whether the concerned workman is "workman" under Section 2(s) of the I.D. Act.
- (2) Whether the concerned workman is doing the job of Auto Supervisor and fit to be regularised on the post of Asstt. Foreman.

The workmen examined the concerned workman WW-1 Shri D. Bhusan Tewary and exhibited his documents as Ext. W-1 to W-18. The management did not examine any witness but his document is marked Ext. M 1 and M2.

Point No. 1

It has been submitted on behalf of the management that according to the workmen the concerned workman is working as Automobile Supervisor which is a post of supervision and as the workman is getting wages of more than Rs. 2000 P.M., his case cannot be covered under the definition of "Workman" under Section 2(s) of the I.D. Act. Section 2(s) defines workman. We are concerned with clause IV of Section 2(s) of the I.D. Act while defining a workman. It further excludes any person as "workman" and provides in clause IV that a person employed in a supervisory capacity drawing wages exceeding Rs. 1600 per mensem, or exercises either by the nature of the duties attached to the office or by reason of the power vested in him, functions mainly of managerial nature is not a workman. The question therefore to be decided on the points raised by the management is whether the concerned workman is drawing wages exceeding Rs. 1600 per mensem so as to exclude him from the definition of "workman". The concerned workman has examined himself as WW-1. In the first line of his cross-examination WW-1 has stated that he gets about Rs. 1500 per month in all as salary. The workmen have produced the wage slip which shows the concerned workman designated as HVD (Heavy Vehicle Driver). His basic wage is shown as Rs. 31.04 per day. The management has also filed photo copy of the wage sheets of the concerned workman for the period 11th April, 1989 to 10th May, 1989 and 11th January to 10th February, 1988 vide Ext. M-1 and M-2 which also shows that the concerned workman is designated as H.V.D. getting basic wages of Rs. 30.04 P. per day besides D.A. On perusal of pay slips it will appear clear that the concerned workman is not getting wages of more than Rs. 1600 per month. Thus even if the concerned workman is working in the supervisory capacity he is not drawing wages exceeding Rs. 1600 per month and as such he is covered by the definition of "workman" as provided under Section 2(s) of the

I.D. Act. Accordingly I hold that the concerned workman is "workman" under Section 2(s) of the I.D. Act.

Point No. 2

At the very outset the learned Advocate appearing on behalf of the management submitted in his argument before me that the management does not dispute the fact that the concerned workman is doing Supervisory duty and that he was also doing supervisory duty at the time when the dispute was raised and the only point which was raised before me on behalf of the management was that the concerned workman was not a 'workman' within Section 2(s) of the I.D. Act. I have already decided above and held that the concerned workman is "Workman" under the provision of Section 2(s) of the I.D. Act. Thus in fact there appears to be as serious dispute raised on behalf of the management on the point whether the concerned workman is doing supervisory duty. However, I am discussing the evidence on the point whether the concerned workman was doing the job of supervisory nature in the Automobile Workshop of the management.

Ext. W-1 is the appointment letter dated 2-8-83 which shows that the concerned workman was appointed as Heavy vehicle driver and he was directed to report to the General Manager Govindpur Area for his assignment. It is admitted by the management in para-3 of their W 8, that the concerned workman was working as a Driver at Govindpur Colliery and was transferred to Auto workshop under the Transport Manager of Govindpur Area on 7-9-84 and was placed in Cat. V of NCWA-III. In para-4 of the W.S. the management have accepted that the construction and installation work of the automobile workshop started in September, 1984 and in November-December, 1984. The said workshop started functioning. It is also admitted in para-5 of the W.S. of the management that as there was less amount of job of driver at the workshop the concerned workman was given some alternative job by the Transport Manager. Thus it is admitted that the concerned workman was given alternative job other than the job of a Driver. Ext. W-5 dated 4-10-85 is a letter from Shri H.M.P. Verma Manager Transportation to the General Manager, Govindpur Area No. III which shows that the auto workshop was started in November, 1984 and at that time the total strength of man power was 11 persons only. He further felt the need for an employee for taking attendance, receiving stores materials and repairing of coal tippers from the existing strength. The Manager Transportation was of the opinion that as the concerned workman was having experience of vehicle repairing and maintenance of various records he was found suitable to be assigned the job of supervising the activities in the workshop. He further stated that the concerned workman is having full command over workers and was sincere to the job assigned to him. Ext. W-6 dated 12-12-84 is an earlier certificate by the Manager(Transportation) Govindpur Area and it states that the concerned workman Shri D. B. Tewary having experience of vehicle repairing and maintenance various records was found suitable to be assigned the job of Asstt. Foreman in the work-

shop. He has further shown the concerned workman presently designated as Heavy Vehicle Driver working as Asstt. Foreman. Ext. W-5 is a joint petition by the concerned workman and 2 others addressed to the G. M. Area No. III dated 24-7-87. It will appear from this petition that the concerned workman and others had requested the management for changing their designation and fixation of appropriate grade and placement in the proper scale of pay on the ground that they are working in higher grade/category since long but have not still been given designation according to the work being performed by them. It further states that the concerned workman Deo Bhusan Tewary designated as Heavy Vehicle Driver in Cat. V is working as Asstt. Foreman since 10-9-84. Ext. W-5 dated 29-7-86 is the recorded note of discussion between the management and the members of Chalak Samity. Item No. 4 shows that Chalak Samity was claiming that the concerned workman be regularised as Supervisor and it was decided that the members of the Chalak Samity should first discuss the matter with the Area Manager (Transportation) and thereafter on receipt of the papers the area Office will deal with the matter. Ext. W-10 is dated 3-2-88 from the Area Manager (Transportation) Group Area No. III to the Personnel Manager, Group Area No. III relating to the particulars of the personnel at Workshop. The particulars of persons working at auto workshop for holding D.P.C. was given and the concerned workman Shri D. B. Tewary is shown having his designation as Heavy Vehicle Driver in Cat. V working in auto workshop as Asstt. Foreman with effect from 10-9-84. Ext. W-15 series are list of working report of auto workshop giving the names and attendance of all the workman working in the auto workshop. All these lists show the concerned workman as Asstt. Foreman. These are all signed by the Manager (Transportation) Govindpur Area. This has been filed to show that the concerned workman was working as Asstt. Foreman and his attendance was marked accordingly. Ext. M-16 series are noting sheets regarding Sunday deployment in the transportation department for the years from 1985 to 1989 which shows that the concerned workman was deployed on Sunday as Asstt. Foreman. Ext. M-17 series are notesheets to show that the concerned workman working as Foreman at workshop was being directed to deploy tracks and tippers etc. for the other collieries. By these exhibits the workman have tried to show that he was working as Foreman and as such the higher authorities were directing him to make arrangement for the tracks and tippers etc. as directed in the slip. The concerned workman has stated that he was working as Asstt. Foreman and the said statement finds fully supported by the documents of the management. No evidence has been adduced on behalf of the management to show that the concerned workman was not working as Auto Supervisor in the post of Asstt. Foreman as such the evidence of the concerned workman WW-1 has to be accepted. The workman WW-1 has stated that there is one Transport Manager (Incharge) of the auto workshop and his position comes after him. He has also stated that he does all the supervisory work of the auto workshop and it is under his control. He has also stated that there is no other person in Cat. V in the said workshop which shows that there was no other

person who was doing the job of Asstt. Foreman or Foreman under the Transport Manager and that he being the only person in Cat. V there was no other person senior to him. He has also stated about the different jobs being done by him as an Asstt. Foreman in the auto workshop and the same is not denied by the management.

It will appear from the Army Service Certificate of the concerned workman Ext. W-2 that he had worked for over 15 years as Heavy Motor Vehicle Driver and had a long experience of the heavy vehicles. Ext. W-12 dated 19-12-87 is a letter by the management which was sent to Ashoke Leyland for training of the concerned workman showing his designation as Asstt. Foreman and 5 others. Ext. W-11 dated 24-10-87 is the certificate granted by Ashoke Leyland Ltd after the service training course on tipper maintenance. It shows that the concerned workman Shri Deo Bhusan Tewary, Asstt. Foreman deputed by the Govindpur Area attended the course and successfully completed the training. This certificate will show that the concerned workman was given training for the maintenance of Tipper. It will further show that the management while sending him for training for maintenance of tippers showed his designation as Asstt. Foreman. In view of the overwhelming evidence and also the acceptance of the position by the management, I hold that the concerned workman was working as Auto Supervisor in the capacity of Asstt. Foreman in the auto workshop with effect from 10-9-84. It is also admitted that the concerned workman is still getting the scale of pay of Cat. V and as such he is entitled to the difference of wages between Cat. V and Technical and Supervisory Grade-C which is the Grade of Asstt. Foreman with effect from 10-9-84.

I, held therefore that the concerned workman is doing the job of auto supervisor and is fit to be regularised as Asstt. Foreman. The concerned workman had demanded for regularisation vide Ext. W-7 dated 29-8-86 and as such the concerned workman is regularised from the month of September, 1986.

In the result, I hold that the demand of the union that the concerned workman Shri Deo Bhusan Tewary Driver should be regularised on the post of Asstt. Foreman by the management of Govindpur Area No. III of M/s BCOI is justified. The management is therefore directed to regularise the concerned workman as Asstt. Foreman in Technical and Supervisory Grade-C with effect from September 1986 and pay him the difference of wages of Cat. V and Technical Supervisory Grade-C with effect from 10-9-84 within 2 months from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-24012(110)87-D. IV(B) (R(Coal-I))]

K. J. DYVAPRASAD, Desk Officer.

नई दिल्ली, 16 नवम्बर, 1989

का.मा. 3081--प्रौद्योगिक विद्या प्रशिक्षण, 1917 (1947 का 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच संबंध में निम्नलिखित प्रौद्योगिक विद्या में केन्द्रीय सरकार प्रौद्योगिक अधिकरण, कोलपुर के पंचपद को प्रकाशित करती है।

New Delhi, the 16th November, 1989

S.O. 3061.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL TRI-
BUNAL-CUM- LABOUR COURT, KANPUR

Industrial Dispute No. 138 of 1987

In the matter of dispute between :

Shri S. L. Shukla, General Secretary, Central
Zone, National Insurance Employees Asso-
ciation, 76-D, Shyam Nagar, Kanpur.

AND

The Manager, L.I.C. of India, Jeevan Vikas, 16|
98, Mahatma Gandhi Marg, Kanpur.

AWARD

1. The Central Govt., Ministry of Labour, vide its notification No. L-17012/44/86-D.IV(A) dated 8-9-87, has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Management of L.I.C. of India in appointing Smt. Saraswati Sukhla as cleaner with effect from 26-3-1983 instead of in the post of peon is justified? If not, to what relief the worker entitled?”

2. The Industrial Dispute in this case on behalf of the workman Smt. Saraswati Shukla has been raised by the General Secretary, Central Zone of National Insurance Employees Association, Kanpur, on behalf of the said Association affidavit evidence of the workman was filed as back as on 30-9-1988. Thereafter the workman has not appeared before the Tribunal for her cross examination. On the last date adjournment was sought by Shri S. L. Shukla, the general secretary and the case was adjourned for today's date with the specific direction that it would be a final opportunity for the said Association. Today no one has appeared from the side of the Association nor even the workman has come for her cross examination.

3. From the circumstances, therefore it appears that neither the workman nor the Association is interested in prosecuting the case.

4. As such the reference is answered accordingly. The National Insurance Employees Association, Central Zone.

Sd/-

ARJAN DEV, Presiding Officer

[No. L-17012/44/86-D.IV(A)] [R(Bank-I)]

का.आ. 3062.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार, भागोरथ ग्रामीण बैंक

सितापुर के प्रबंधन के सम्बन्ध निवासियों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचकट को प्रकाशित करता है।

S.O. 3062.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Bhagirath Gramin Bank, Sitapur, and there workman.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUST-
RIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR

Industrial Dispute No. 139 of 1988

In the matter of dispute between :

Shri Asfaq Ali C/o Shri Pradheep Kumar Tiwari,
Secretary U.P. Bank Employees Union, C/o
Bank of India, Greek Ganj Sitapur (U.P.)

AND

The Chairman Bhagirath Gramin Bank, Head
Office, Civil Lines, Sitapur (U.P.).

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/03/88-D.I(B)D-3(A), dt. 26-10-88, has referred the following dispute for adjudication to this Tribunal :

“Whether the management of Bhagirath Gramin Bank, Sitapur was justified in terminating the services of Shri Ashfaq Ali, S/o Shri Lal Mohd. as Typist w.e.f. 19-8-1986 in violation of section 25F of I.D. Act, 1947? If not, what relief the workman was entitled to?”

2. In the instant case on 20-6-89 parties filed settlement requesting that the reference be decided in terms of the settlement. The settlement has duly been verified and signed by the parties representatives and by the workman too. The terms of settlement are :—

1. That the management of Bhagirath Gramin Bank agrees to provide permanent employment to Shri Ashfaq Ali as Junior Clerk-Cum-Typist in the Bank w.e.f. 1-6-1989.

2. That Shri Asfaq Ali will report for duty at the Bank's Head Office within 10 days from the date of this settlement, wherefrom the appointment letter alongwith posting instructions will be issued by the management.

3. That the workman concerned Shri Asfaq Ali voluntarily agrees to forego his claim for back wages, compensation and the benefits whatsoever of his past temporary services in the Bhagirath Gramin Bank and as such Shri Asfaq Ali will never claim the same in future.

4. That this fully and finally resolves the entire matter of dispute under reference,

Thus in view of the above settlement the reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-12012/3/88-D.IV(A)|IR(Bank-I)]

का.भा. 3063—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है।

S.O. 3063.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR
Industrial Dispute No. 55 of 1988

In the matter of dispute between :

The Secretary, Meerut Division Insurance Employee Union LIC of India Divisional Office, Prabhat Nagar, Meerut.

AND

The Divisional Manager LIC of India Divisional Office Prabhat Nagar, Meerut

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-17012/02/88-D.IV(A) dt. May 5, 1988, has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Life Insurance Corporation of India in relation to their Meerut Division in Keeping the promotion of Shri Yogendra Kumar Ruhela, Record Clerk, to the post of Assistant in abeyance in view of the pending disciplinary proceedings against him on the date of promotion on 31-3-86 is justified ? If not, to what relief the workman is entitled to ?"

2. In the present case dates 25-11-88, 3-1-89, 10-2-89 and 15-3-89 were fixed for the cross examination of the workman as the workman has filed his affidavit evidence on 7-11-88. But despite that the workman never attended the court on any of these dates despite notices. Ultimately on 15-3-89, the case was taken up at camp Delhi, as the workman belongs to Meerut, but there too the workman had not attended the Court.

3. Thus it appears from the circumstances of the case that the workman is least interested in prosecuting his cause. The Union is seems to be not interested
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in the case. As such a no claim award is being given against the Union/workman.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-17012/2/88-D.IV(A)|IR(Bank-I)]

का.भा. 3064—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक, नई दिल्ली के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है।

S.O. 3064.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India, New Delhi and their workman.

ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER, CENTRAL GOVT INDUSTRIAL TRIBUNAL; NEW DELHI

I.D.NO. 72/88

In the matter of dispute between :

Shri Ranjit Singh, through the Secretary, Reserve Bank Employees Union, Bank of India Building, New Delhi.

Versus

The Manager, Reserve Bank of India, 6, Parliament Street, Delhi.

APPEARANCES :

Shri S. L. Kaushik, Secty. Reserve Bank Employees Union with Shri P. S. Bindra for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/01/88-D.IV(A) dated 7-7-88 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Reserve Bank of India, New Delhi in not giving seniority to Shri Ranjit Singh, Clerk, from the date on which he started performing the duties of Clerk and instead giving him seniority w.e.f. 1-1-79 is justified ? If not, to what relief the workman is entitled to ?"

2. The Reserve Bank employees Union filed statement of claim dated 10-10-1988 and the Reserve Bank of India filed its written statement dated 19-12-1987. The Union filed a rejoinder dated 11-9-1987. The case was fixed for management evidence. However, during the pendency of the dispute the workman died on 22-5-89. Thereafter the Man-

agement appointed Shri Kamaljeet Singh s/o deceased workman as temporary clerk/coin note examiner Grade II w.e.f. 21-7-89. In the light of this development the Union made statement that they did not want to pursue this dispute any more. Hence No Dispute Award is given and this reference is disposed of accordingly.

Dated 1-8-89.

G. S. KALRA, Presiding Officer
[No. L-12012/1/88-D.IV(A)/IR (Bank-I)]

का.प्र. 3065.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार वैश्य बैंक लिमिटेड के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुवन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है।

S.O. 3065.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the annexure, in the industrial dispute between the employers in relation to the management of Vysya Bank Limited and their workman.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 30th day of August, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons.), LL.B.—Presiding Officer.

Central Reference No. 41/88

I PARTY :

Shri M. Krishnamurthy,
No. 83, Venkatesha Nilaya,
Aryanagar,

J. P. Nagar Post,
BANGALORE-560078.

Vs.

II PARTY :

The Chairman-cum-
Managing Director,
Vysya Bank Limited,
No. 62, St. Marks' Road,
BANGALORE-560001.

APPEARANCES :

For the I party.—Shri M. S. Ramachandra Rao,
Advocate.

For the II Party.—Shri B. C. Prabhakar, Advocate.

AWARD

By exercising its powers under Section 10(1)(d) and (2A) of the I.D. Act, the Government of India,

Ministry of Labour made the present reference on the following point of dispute by its Order No. L-12012/101/87-D.IV.A dated 9-8-1988.

POINT OF REFERENCE

"Is the management of Vysya Bank Limited justified in compulsorily retiring from services Shri M. Krishnamurthy, Accountant, with effect from 26-12-1986 is justified? If not, to what relief the employee is entitled?"

2. In the claim statement, the I party employee has stated as follows :

He joined the services of the II party in 1961 as a clerk. Taking into account his meritorious service, he was promoted as an Accountant in 1977. A chargesheet was issued to him and he had sent his explanation to the same. Without applying its mind, the II party appointed an Enquiry Officer. Without giving reasonable opportunity, the Enquiry Officer concluded the enquiry and has submitted his report on 3-4-1986, holding him guilty. The management has accepted the report and compulsorily retired him by an order dated 22-12-1986. The said order is illegal and unjustified. The enquiry is vitiated for several reasons. The order may be set aside and he may be reinstated with all the consequential benefits.

3. The II party has filed the counter statement and has contended as follows :

The I party had raised a dispute before the Assistant Labour Commissioner and a conciliation proceeding was held. The II party contended that the I party was not a workman as per Section 2(s) of the I.D. Act and that he was an officer. No reasonable opportunity was given to them to show that he was not a workman. This court has no jurisdiction to entertain the dispute, since he was not a workman. A chargesheet dated 10-09-1985 was issued to him. He submitted his explanation dated 18-09-1985. Then an Enquiry Officer was appointed. He held an enquiry in accordance with the principles of natural justice and gave his findings. The other allegations made by him are not correct. The order passed by the management is in disproportionate to the seriousness and gravity of the charges. The reference may be rejected.

4. In view of the said pleadings, the following two issues were raised :

- (1) Whether the I party employee was a workman, as defined in Section 2(s) of the I.D. Act? and
- (2) Whether the II party proves that it has held the domestic enquiry in accordance with Law?

5 The parties adduced oral and documentary evidence on the said issues and were heard.

6. My considered finding has been recorded on both the issues on 31-7-1989.

7. It has been held that the I party employee was not a workman, as defined in Section 2(s) of the I.D. Act and on issue No. 2, that the II party

has conducted the domestic enquiry in accordance with the law.

8. Thereafter, the matter was called for further evidence, if any, and for arguments.

9. Though several adjournments were granted, the I party employee and his advocate did not appear and finally on 14-8-1989, it has been recorded that they were absent.

10. The learned counsel for the II party was heard on 22-8-1989.

11. In view of the finding on issue numbers 1 and 2, it follows that this Tribunal has no jurisdiction to entertain the dispute and that no award on merits can be passed in regard to the point of reference.

12. In the result, an award is passed to the effect that this Tribunal has no jurisdiction to pass any award on merits and that the reference stands rejected.

13. A copy of the order passed on issue numbers 1 and 2 is enclosed, and it shall form part of the award.

(Dictated the Personal Assistant, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer.

[No. L-12012/101/87-D.IV(A)]IR (Bank-I)]

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 31st day of July, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons.) LL.B., Presiding Officer,

Central Reference No. 41/88

I PARTY

Shri M. Krishnamurthy, No. 83, Venkatesha Nilaya, Aryanagar, J. P. Nagar Post, Bangalore-560078.

Vs.

II PARTY

The Chairman-cum-Managing Director, Vysya, Bank Limited, No. 72, St. Marks Road, Bangalore-560001.

FINDINGS ON ISSUE NOS. 1 & 2

The first party employee has filed his claim statement and his contentions, on the points that he is a workman within the meaning of section 2(s) of the I. D. Act and that the domestic enquiry conducted against him is not valid are as follows :

(1) He was working as Accountant since 1977.

(2) By a resolution dated 2-5-1980, charges were framed against him and that he had

given his explanation. The enquiry officer proceeded with the enquiry.

(3) The enquiry officer did not give him reasonable opportunity.

(4) Documents on which the second party relied upon were not furnished by him and were not produced before the enquiry officer.

(5) The management had appointed a presenting officer, but he was denied the opportunity to engage a co-employee as his representative.

(6) The charges framed against him are vague.

(7) The enquiry officer has acted as a prosecutor and a Judge.

(8) The enquiry may be set aside.

2. On the aforesaid points, the management had contended as follows :

(1) He was not a workman as defined in section 2(s) of the I.D. Act, since he was an officer of the bank, at the relevant time even as an accountant he was discharging administrative functions and his duties were managerial and not clerical.

(2) Considering the gravity of the charges, Shri K. V. Govinda Raju was appointed as the enquiry officer.

(3) Reasonable opportunity was given to him to defend himself.

(4) Well established principles of natural justice have been followed in the enquiry. There was fair-play. A list of 20 documents dated 24-1-1986 was filed and a copy of the same was given to him. He was given opportunity to inspect the original documents by a letter dated 4-2-1986. The first party employee stated that he was aware of the documents, since he was working as a Manager of Kodigenahally Branch.

(5) He never proposed to engage any co-worker for his defence. He has not availed the opportunity to engage a co-worker, for the reasons best known to himself.

(6) It is denied that the charges are vague. They are clear and definite.

(7) The allegation that the enquiry officer has acted as a prosecutor and a Judge is baseless.

(8) The other allegations made by him are not correct.

3. In view of the said pleadings the following issues have been raised.

(1) Whether the first party employee was a workman as defined in section 2(s) of the I. D. Act ?

(2) Whether the second party proves that it has held the domestic enquiry in accordance with law?

4. A memo dated 23-5-89 has been filed by the learned counsel for the first party and it has been stated that all the issues involved in the case may be decided. Hence, both the issues have been taken up together.

5. Both the issues have been taken up as preliminary issues.

6. For the management three witnesses have been examined and Exs. M-1 to M-116 have been got marked.

7. For the first party, the employee has been examined and Ex. W-1 has been marked.

8. The parties have been heard.

9. My findings on the said issues are as follows :

ISSUE NO. 1

The first party employee was not a workman within the meaning of Section 2(s) of the I. D. Act.

ISSUE NO. 2

The second party proves that it has held the domestic enquiry in accordance with Law?

REASONS

ISSUE NO. 1

10. MW-2 Shri K. R. Venkatachalpathy is the Assistant General Manager of the second party. From 1979 to 1983 he was Divisional Manager at Mysore. Kodigenahalli of Tumkur District was then under his jurisdiction. In para 3 of his evidence MW-2 swears that the first party employee was working as the branch manager at Kodigenahalli branch and that the powers of the branch manager have been shown in Ex. M-20 and M-21. WW-1 Krishnamurthy the employee, has admitted in para 30 of his evidence that he was posted to Kodigenahalli in November 1979, and he was working there as a manager for 4-1/2 years. Ex. M-12 dated 26-10-89 is the order showing that Krishna Murthy was transferred as a branch manager to Kodigenahalli branch. Ex. M-13 dated 17-9-77 shows that the first party had been promoted as an officer of the bank in grade II and the conditions shown in Ex. M-13 disclose that hence forth he was to be governed by the rules and regulations of the bank, relating to the officers and that his duties would be as allocated by the management. At the bottom of Ex. M-13 there is the endorsement of the first party that he had agreed to abide by the terms of the promotion order as an officer of the bank. Ex. M-14 dated 29-9-1977 is the service agreement executed by him as an Officer of the bank. The terms and conditions shown in Ex. M-14 leave nothing to doubt that he accepted to work in the capacity of a manager of the bank and he voluntarily undertook to execute managerial and administrative nature of work. In clause 7 of Ex. M-14 he agrees that he will be bound by the staff regulations and rules of the bank. In para 34 of his evidence WW-1 has admitted that he has executed Ex. M-14. It is further admitted by him that

as per Ex. M-16 dated 10-11-1969 he was relieved from Jayanagar branch with a direction that he should go and join as a branch manager at Kodigenahalli. MW-2 has sworn in para 11 that unless an officer is given a power of attorney by the bank, he cannot be posted as the branch manager and that accordingly Ex. M-17 is the power of attorney issued to the first party employee. In para 37 of his evidence WW-1 Shri Krishna Murthy admits that in the second party there is a procedure to give a serial number to an employee in which favour, a power attorney is executed. He further admits that Sl. No. 306 was his number. It is further admitted by WW-1 in para 39 that he had taken charge as the branch manager, Kodigenahalli as per Ex. M-19. Ex. M-19 dated 24-11-79 shows that after taking charge from one B.R. Sathyanarayana, as a branch manager he certified that he had checked and found the following items shown therein to be correct. The items shown in Ex. M-19 make it very clear that he took over charge as a branch manager and he further agreed to act in the capacity of a manager and administrative head of the said branch. The documents at Exs. M-20 and M-21 have been duly proved by MW-2. They show that the management had delegated certain powers for making advances and that the all branch managers had the power to grant advances to a certain extent. The document at Ex. M-22 the pro-note, Exs. M-23 and M-24 the hypothecation deeds bear the signatures of first party employee. They prove that the first party Krishna Murthy represented the bank in these three documents. The signatures at Exs. M-23(a) and M-24(a) are admitted by WW-1 Krishna Murthy. Ex. M-25 a circular dated 20-2-1980 was confronted to first party, but he has denied that he had received any such circulars such as M-20, M-21 and M-25 etc. The fact that the bank has issued these circulars such as Exs. M-20, M-21 and M-25 all the branch managers is proved by the evidence of MW-2 and MW-3. WW-1 Krishna Murthy has been confronted with the leave applications of several employees of Kodigenahalli branch, as per Exs. M-26 to M-38. It is admitted in para 43 of his evidence by WW-1 that he has sanctioned leave to the clerks and sub-staff of Kodigenahalli branch. Unless the branch manager works as the manager and administrative head of the branch, it cannot be believed that he had the power to sanction leave to the members of his staff. In para 44 of his evidence he reiterates that he has sanctioned these leave applications. Ex. M-39, a monthly return showing all types of leave, has been confronted to him. It is conceded by him in para 45 that he used to submit such monthly returns. The management contends that as per the circular Ex. M-40, all the branch managers were empowered to take disciplinary action against the subordinate staff. Ex. M-41 is the notice dated 26-3-84. In para 45 of his evidence WW-1 admits that managers of some branches used to take disciplinary action against the members of their staff. In regard to Ex. M-41(a) he admits that the branch managers were empowered to send reports against their sub-staff. With reference to Exs. M-42 to M-45 he admits his signatures at Exs. M-42(a) to M-45(a). These are the salary sheets. It is admitted by him that he was the salary disbursement authority. It is apparent that only a manager or an administrator

of the branch can have the power of disbursement of the salary of the employees working under him. WW-1 was shown Exs. M-46 and M-47, the professional tax returns and it is admitted by him that he was sending such returns. In para 50 of his evidence he concedes that the head office had sent circular instructions and as per such instructions, he had sent appraisal reports as per Exs. M-48 and M-49. It is an admitted fact that Ex. M-48 and M-49 are confidential reports. It is obvious that only an administrative officer can send confidential reports regarding the work of his subordinates. It is verily conceded by WW-1 that the persons shown in Ex. M-48 and M-49 were then working as probationary clerks. It is further admitted by him that Meda Srinivasulu continued to work in his office even after confirmation. In para 51 of his evidence WW-1 admits that only an officer was given rent-free quarters and conveyance allowance and that Ex. M-50 is one of such conveyance bills sent by him. In para 53 of his evidence he further admits that he used to allot work to the clerks. The allotment of work is evidenced by the instructions and orders to be found at Exs. M-51 to M-53. WW-1 admits in para 53 that he has signed them. Ex. M-54 is a confidential letter regarding the surplus or shortage of the staff. Exs. M-55 and M-56 are letters to show that whenever members of the staff were transferred, WW-1 Krishna Murthy used to issue relieving orders. WW-1 admits that he had written the letter Ex. M-57 for appointing the members of the sub-staff. staff Ex. M-58 discloses that he used to send the salary particulars of the employees of his branch. In connection with the Ex. M-59, WW-1 admits in para 55 that he used to appear for the seminars representing the bank and Ex. M-59 is a letter in that connection. With reference to Ex. M-60 he admits in para 56 that he used to send representations to the R.B.I.

11. WW-1 Shri Krishna Murthy has been questioned with reference to his first oral statement made before the enquiry officer and also in his appeal Ex. M-11. In para 59 he admits that in Ex. M-11 he has asserted that he was working as Manager at Kodigenahalli branch. The first party employee has been confronted with withdrawal slips, marked as Exs. M-61 to M-68. It is admitted by him that he has passed the withdrawal slips, when he was working at Hindupur branch. He contends that at the instance of the manager he had passed them. The question is whether the first party was empowered to pass the withdrawal slips. Passing of withdrawal slips is per se, a managerial function. In para 63 of his evidence WW-1 concedes that he has passed the cheques as per Exs. M-69 to M-77. It is a known fact that cheques are passed only by an officer of the bank and the Court can take judicial notice of the fact that a non-officer is not empowered to pass the cheques. The employee WW-1 Krishna Murthy himself admits in para 64 that clerks cannot pass withdrawal slips and cheques. Similarly, the S. B. Challans at Ex. Ex. M-78 to M-85 have been passed by the first party employee. From the power of attorney Ex. M-17 it is obvious that the first party had been empowered to work as an officer. Ex. M-17 substantiates the plea of the management that WW-1 Krishna Murthy had passed the withdrawal slips and cheques

only for the reason that he was an officer of the bank. With reference to the challans at Exs. M-86 to M-91, he admits in para 65 that he has passed these current account challans. He further admits that he has passed the O.B.C. vouchers at Exs. M-90 to M-96, and so also the D. D. challans and the D.D.s at Exs. M-97 to M-108 and Ex. M-16. It is further conceded by him that in all these D.Ds he has shown his No. 306. In para 66 of his evidence he admits that he has passed the credits at Exs. M-109 to M-112. In para 67 he states that he has passed the bill realisation vouchers at Exs. M-113 and M-114, and he has signed the bank guarantee. Unless he is an officer of the bank duly authorised in that behalf, how can one employee issue guarantees. In para 67 of his evidence, WW-1 admits that he had issued the demand drafts at Exs. M-104 to M-108 and Ex. M-18. In para 68 he makes a clean statement that there is no power with the clerks to pass the aforesaid instruments and documents, and only the officers of the bank have the powers to pass them. The order of transfer from Bangalore to Hindupur, Ex. W-14 relied upon by the first party does not show that he was not an officer.

12. The evidence of MW-2 Venkatchalapathy shows that as a branch manager Krishna Murthy used to allot work to the members of the staff by rotation and that he was the disbursing authority for the members of the staff. MW-2 has further sworn that Krishna Murthy used to issue relieve orders to the members of the staff and Ex. M-56, is one such order. His evidence further shows that on one occasion Krishna Murthy had engaged a member of the sub-staff as per Ex. M-57. With reference to Ex. M-59, MW-2 states that the first party had attended a seminar, as a bank representative. MW-2 swears in para 24 that as regards sanction of loans, it was not necessary for the first party Krishna Murthy to get any ratification and that he was independently empowered to sanction the loans. He has testified to the loan documents at Exs. M-19, M-22 to M-24. In para 25 MW-2 has sworn that until his retirement the power of attorney has continued to be in favour of MW-1 Krishna Murthy. There is nothing in the cross-examination of MW-2 to discredit his testimony.

13. The evidence of MW-3 Shri Srinath shows that when he was the manager of the Hindupur branch, the first party was working as an accountant and even at that time he was holding a power of attorney in his favour and he was performing the duties of an officer as per the manual of instructions. In para 7 he swears that there was practically no difference in the powers exercised by the manager and the Accountants and that accountants are called as the officer of the bank. In para 12 MW-3 swears that Krishna Murthy was exercising supervisory powers. MW-3 has further sworn to the fact that the first party employee has signed and passed and put his signatures to various documents such as Exs. M-61 to M-115, as an officer of the bank. It has been suggested to him that WW-1 used to pass certain bills as per the orders of MW-3 Srinath. MW-3 has refuted the suggestion. It can hardly be believed that a D.D., a Cheque or a withdrawal slip can be

passed by any employee who is not authorised by the bank to pass the same. Still more, it can hardly be believed that any bank document can be passed on oral orders of an officer, by an employee who is not himself authorised to pass the same.

14. On an analysis of the evidence of MW-2 and MW-3 and looking at the various admissions made by WW-1 Krishna Murthy himself, with reference to the documents produced by the bank, I find that the nature of duties performed by WW-1 Krishna Murthy either in Kodigenahalli or Hindupur, were of the nature, that are carried out by an employee who mainly works in a managerial or administrative capacity. On pages 511 and 512 of the law of the Industrial Disputes by C. P. Malhotra (IV edition Vol. No. 1). It has been stated by the learned author that the branch manager of a bank, exercising managerial powers on account of the nature of duties attached to the post of the manager cannot come under the definition of a workman. He has referred to the authority of *Aparna Kumar Dhar Gupta Vs. United Industrial Bank Limited* (1979 LAB I. C. page 506). The commentary on pages 511 and 512 would make it amply clear that the nature of duty should be taken into account to find out whether an employee has been working mainly in a managerial or administrative capacity. In my opinion, the evidence of MW-2 and MW-3 and the documents as referred to above, when read along with the admissions made by WW-1 establish that in Kodigenahalli and also in Hindupur. The first party Krishna Murthy was mainly working in the managerial and administrative capacity and at the relevant time he was not a workman within the meaning of section 2(s) of the I. D. Act.

ISSUE NO. 2

15. The evidence of MW-1 Govindraju, the enquiry officer shows that after receipt of the charge sheet Ex. M-1, the employee had sent his written statement Ex. M-2 and that he had denied the charges. His evidence further shows that then he was appointed as the enquiry officer as per Ex. M-3 and he conducted the enquiry.

16. In his reply Ex. M-2 there is nothing to suggest that the charge sheet issued to him as per Ex. M-1 was not understood by him or that it was vague. The contention that the charge sheet Ex. M-1 is vague cannot be accepted, since the statement of imputations below each charge, explains in detail the purport of the each head of charge.

17. The evidence of MW-1, the enquiry officer and the proceeding sheet at Ex. M-4 disclose that he had given all the reasonable opportunity to the employee to defend himself. In the enquiry the management had produced 5 documents and it examined two witnesses. The evidence of two witnesses is at Ex. M-5, and the documents of the management are at Exs. M-6(a) to M-6(c). The first party had filed his written brief as per Ex. M-7. The oral statements of the employee are to be found at Ex.

M-8(a) and M-8(b). The contention of the employee that list of documents was not given to him is belied by the list at Ex. M-9. MW-1 has sworn that he had given the copies of the same to the employee. The enquiry officer has sworn that at the commencement of the enquiry he explained to the employee the procedure of the enquiry and he permitted the employee to take the assistance of any defence representative. The enquiry officer has sworn that the employee did not take the assistance of any body. The evidence of enquiry officer further discloses that though he had permitted the employee to inspect the original documents, the employee stated that most of the documents were prepared by himself and he was aware of the original documents. In the cross-examination also, the enquiry officer affirms that the employee had examined the five documents, produced by the management and that the employee had been given opportunities to verify the records. The statement of the employee at Ex. M-8(a) supports the evidence of the enquiry officer in that connection.

18. In para 5 of the evidence WW-1 Krishna Murthy has stated that the enquiry officer did not give him opportunity to examine the original documents and that the enquiry officer told him that it was not necessary for him to look into the documents. In the cross-examination para 11 WW-1 admits that the signature on page 91 is his. He further admits that he has made the signature on page 94. Page 91 of the enquiry file Ex. M-1 shows that the first party employee gave in writing to the enquiry officer that he has received the lists of documents and witnesses and that he was aware of the original documents, since he was working as the branch manager of Kodigenahalli branch and that some of them were prepared by himself. He has categorically stated that it was not necessary for him to examine the original documents, or the vouchers. On page 94 there is the letter issued by the enquiry officer to the first party employee and it shows that copies of the lists of documents were given to him and he was instructed to inspect the original documents on 4-2-86 between 10-30 a.m. to 5-30 p.m. at Kodigenahalli branch and was permitted to take extracts of the documents. On page 95 there is the letter of the branch manager to show that the first party was permitted to visit Kodigenahalli branch on 4-2-86 and to inspect the documents had to take the copies. In para 13 of his evidence WW-1 concedes that he had received the said letter at page 95 dated 1-2-86. The employee however states that he had gone to Kodigenahalli, but the manager and one Gosavi did not permit him to examine the documents. In para 14 he admits that he has not written any letter, either to the management or to the enquiry officer that they did not show him the original documents. It is admitted by WW-1 that he has signed the letter on page 97. It shows that the first party had sought for permission to go to Kodigenahalli on 4-2-86. The subsequent conduct of WW-1 in not writing either to the management or to the enquiry officer that he had not been shown the original documents, though he had gone to Kodigenahalli is not convincing. The evidence produced before me shows

that no-where he has raised any grievance that bank did not provide him sufficient opportunity to look into the original documents or to have the copies of the same. The evidence, on the contrary shows that he was given lists of documents and witnesses and sufficient opportunity to inspect the originals. It is manifest from the evidence of the enquiry officer that he had given the employee all the reasonable opportunity to defend himself. The contentions raised by the first party employee challenging the validity of the enquiry are not sustainable.

19. Though, the finding on issue No. 2 was not at all called for, in view of my finding on Issue No. 1, I have perforce discussed and recorded a finding on Issue No. 2 on merits, in view of the fact that the first party workman has referred to the case of D. P. Maheswari and has sought for findings on both the issues.

20. In the result, on Issue No. 1 it is held that the first party employee was not a workman at the relevant point of time under section 2 (s) of the Act and on Issue No. 2 it has been held that the management has conducted the domestic enquiry in accordance with law.

21. In view of my finding on Issue No. 1, it follows that the reference is not maintainable.

22. However, an opportunity is given to the parties to submit arguments as to why an award should not be passed as per the finding on issue No. 1.

का.भा. 3066 --औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार छत्रसाल ग्रामीण बैंक के प्रबन्धन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है।

S.O. 3066.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Chhatrasal Gramin Bank and their workmen.

ANNEXURE

BEFORE SHRI ARJAN DEV. PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 142 of 1988

In the matter of dispute between :
Shri Anil Kumar Shukla through Shri P. C. Bajpai 990 Block 'Y' Kidwai Nagar, Kanpur, U.P. Petitioner

AND

Chairman Chhatrasal Gramin Bank Head Office Orai at Jalaun U.P. ... Opp. party

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/06/88-DIV (A) dated 25th October, 1988, has referred the following dispute for adjudication to this Tribunal ;

"Whether the action of the management of Chhatrasal Gramin Bank Orai in terminating Shri Anil Kumar Shukla from service w.e.f. 16-4-85 is justified ? If not, to what relief, the concerned workman is entitled ?"

2. In the instant case on 19-12-88 Shri P. C. Bajpai, authorised representative for the workman filed a settlement and submitted before the Tribunal that the workman concerned has been posted in the Bank at Orai, Jalaun. As none appeared from the side of the management the case was ordered for verifying the settlement fixing 2-1-89. On 2-1-89 none appeared hence it was ordered that the case be come up on 31-1-89 for verification of settlement. On 31-1-89 parties were absent and the case was ordered to come up on 22-2-89 for verification but after that Shri B. S. Dwivedi appeared from the side of the management and he verified the contents of the settlement before the Tribunal. The terms of the settlement are as follows :

1. It is agreed that the workman concerned Shri Anil Kumar Shukla will be absorbed afresh with prospective date hereafter in the permanent cadre of Clerk-cum-Cashier/Typist in Chhatrasal Gramin Bank as per Bank's rules and regulations;
2. It is further agreed that the workman concerned, said Shri Anil Kumar Shukla, voluntary relinquishes his claim of back wages/allowances and the benefits whatsoever, of his past temporary services in the Chhatrasal Gramin Bank and as such Shri Anil Kumar Shukla will never claim the same in future.
3. It is further agreed that the workman concerned Shri Anil Kumar Shukla will be absorbed, as aforesaid, within 10 days of the settlement.
4. Thus this fully and finally resolves the entire matter of dispute under reference.

Thus from the above it appears that there exists no dispute between the parties and the reference is answered in view of the above terms.

Reference is answered accordingly.

ARJAN DEV. Presiding Officer
[No. L-12012/06/88-DIV(A)]/IR (Bank-I)]
PADMA VENKATACHALAM, Dy. Secy.

का.भा. संज्ञासूचक

नई दिल्ली, 20 नवम्बर, 1989

का.भा. 3067--केन्द्रीय सरकार कर्मचारी अधिनियम, 1952 (1952 का 19) की धारा 16 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करने के लिए "कर्मचारी विवाद" शब्दों के अर्थ को 1 जनवरी, 1970 से 31 दिसम्बर, 1981 की अवधि के लिए उक्त अधिनियम के प्रवर्तन से छूट देती है।

[संख्या एस-35014(10)/89-म.सू.-II]

म. के. स्टेटोरी, अवर [अधिवक्ता]

New Delhi, the 20th November, 1989

S.O. 3067.—In exercise of the powers conferred by sub-section (2) of Section 16 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby exempts "Community Kitchens" as a class of establishments from the operation of the said Act for the period from 1st January, 1979 to 31st December, 1981.

[No. S-35014(10)/89-SS-II]
A. K. BHATTARAI, Under Secy.

नई दिल्ली, 21 नवम्बर, 1989

क्र. प्र. 3068.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 21st November, 1989

S.O. 3068.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the industrial dispute between the employers in relation to the Indian Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMILNADU MADRAS-104

Monday, the 16th day of October, 1989

Industrial Dispute No. 4 of 1986

(In the matter of dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Indian Bank, Madras)

Between the workman
Represented by :

The General Secretary, Indian Bank Employees Association (Tamil Nadu) 55, Lingi Chetty Street Madras-600001.

AND

The General Manager (Personnel) Indian Bank, Head Office, 31, Rajaji Road, Post Box No. 1384, Madras-600001.

REFERENCE :

Order No. L-12012/63/85-D.II (A) dated 6-1-1986 of the Ministry of Labour, Government of India New Delhi.

This dispute coming on for final hearing upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru K. Chandru, Advocate appearing for workman and of Thiru A. R. Gokulnath for Tvl. Aiyar and Dolia and A. R. Gokulnath, Advocates appearing for Management and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This dispute between the workman and the Management of Indian Bank, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-12012/63/85-D.II (A), dated 6-1-86 of Ministry of Labour for adjudication of the following issue :

"Whether the action of the management of Indian Bank in relation to their Yercaud Branch in imposing the punishment of stoppage of one increment with cumulative effect on Shri C. S. Kannan, Clerk/Shroff, w.e.f. 2nd May, 1984 is proper and justified ? If not, to what relief the workman is entitled ?"

2. The claim petition averments are that one C. S. Kannan member of the Petitioner-Union is now working as Clerk-cum-shroff, at Mettur Dam, RS. Branch. While he was working at Yercaud Branch was charge-sheeted namely on 22-9-82 when the Accountant informed to send OBC instruments with their schedule by registered post before 4 p.m., he will fully caused delay; that he instigated one temporary sub-staff not to attend the registered thapal and that he replied arrogantly before the Accountant in the presence of the co-staff. Thereupon a domestic enquiry was held after getting an explanation from the worker. The action of the Respondent-Bank was mala fide and was done with a view to punish the said workman for having become an active member of the Union. The Accountant of the Branch was inimically disposed towards workman. During the domestic enquiry the Enquiry Officer without adverting to the materials on record produced by the workman by relying on the interested testimony of the Management witness gave his findings against the workman. Though Dayalan temporary sub-staff stated that registered thapal was given to him at 3-30 p.m., he never mentioned anything about the workman preventing him from discharging his duties the enquiry officer found the workman guilty. On the basis of previous findings the Respondent after issuing show cause notice imposed punishment of stoppage of one increment with effect from 2-5-84 with cumulative effect and the period of suspension has also been treated as suspension period, thus imposing two punishments. These two imposing punishments are contrary to First Bipartite settlement of the Bank. It shows the vindictive act of the Respondent-Bank. The appeal preferred by the worker was also dismissed. The stoppage of one increment is illegal and unjustified. The punishment is not warranted as the workman has not committed any misconduct. Hence the present claim to pass an award holding the punishment imposed is unjustified and direct the Respondent to pay full wages on suspension period.

3. The Respondent in its counter statement states that the Accountant instructed the worker to send OBC instruments by registered post before 4 p.m. when they will be closing their registration counter, he wilfully caused delay and did not send the letters in time. Again he wilfully instigated Dayalan, temporary sub-staff not to attend the registered thapals before affixing stamps for the other thapal which caused further delay and defeated the purpose of the instructions given by the Accountant. Further at about 4-50 p.m. when the Accountant asked him whether the said thapals have been despatched, he replied 'indecently and arrogantly in open bankinghall in the presence of staff members and customers as follows : "ushara polo watlivaika aana kai poda chei, chei poda" (in Tamil).

This wilful insubordination and disobedience of lawful and reasonable orders of the management and indecent behaviour attracted the misconduct under 19.5(e)(g)(c). Subsequently after getting an explanation and holding an enquiry and accepting the findings of the Enquiry Officer that he was guilty of misconduct, the punishment of stoppage of one increment with cumulative effect was imposed. The Respondent states the punishment of stoppage of one increment with cumulative effect and the treatment of the period of absence of the worker from the date of suspension to the date of his reporting for duty at the new station as suspension only are in accordance with the provisions of the Bipartite Settlement and are valid in law. The Respondent has a discretion to treat the whole or part of the period of suspension as on duty as per para 19.12(b) of Bipartite Settlement dated 19-10-86. The punishment imposed on Kannan is proportionate to the misconduct committed by him. The punishment is perfectly in order and justified. The worker was provided all opportunities to effectively take part in the enquiry. The enquiry was fair and proper and was held in accordance with the principles of natural justice. In the event of Court holding the enquiry to be vitiated for any reason, the Respondent may be given an opportunity to prove the charges against the Petitioner by leading additional evidence. The Petitioner is not entitled to claim any relief.

4. The points for determination are (i) whether the stoppage of one increment with cumulative effect on Sri Kannan, the worker with effect from 2-5-84 is proper and justified? (ii) To what relief the workman is entitled to?

5. Exs. W-1 to W-3 and Ex. M-1 to M-15 were marked by consent on either side. No oral evidence was adduced on either side.

6. Before going into the merits of the case, it is conceded by the learned counsel for the Petitioner, the enquiry is not objected. It is further seen out of three charges framed under Ex. M-3 against the worker, the Enquiry Officer has held two charges namely 1 and 2 were not proved as per his findings under Ex. M-11. Therefore, we are left with only one charge under Ex. M-8 namely whether the words (in Regional language),

would amount to indecent behaviour thereby attracting a misconduct covered under 19.5(c) of the Bipartite Settlement. In this connection the Enquiry Officer in his findings under Ex. M-11 has held after discussing the evidence placed before the Officer that charge has been proved and therefore he is guilty of misconduct. The learned counsel for the Petitioner contended that the Enquiry Officer after rejecting the evidence of the Petitioner has come to a conclusion without discussing the evidence of Management. This contention does not deserve consideration for the simple reason that the Enquiry Officer has also discussed the evidence let in by Management before coming to a conclusion. It is seen from Ex. M-10, the Management examined one Mr. Nagarajan as MW-1, who is working in a printing press and when he came to the branch for getting the proof corrected, the incident took place. According to the witness the worker namely Kannan uttered those two words as mentioned while he was waiting for manager. In fact he gave it in writing also about the incident. MW-2 also categorically states in the cross-examination about the words uttered by the workers. He further adds Nagarajan working in a printing press and one staff member apart from Rangarajan and Ramalingam were also present at that time. A close scrutiny of the cross-examination of MW-1 and MW-2 does not reveal any inconsistency. MW-3 the Branch Manager only refers to a complaint given by Nagarajan and after enquiry he preferred to make a complaint to the Regional Manager. MW-4 does not refer to the charges. The worker examined two witnesses. It is true the Enquiry Officer has categorically stated that DW-2 is an interested person and therefore he has not relied on him. Whatever may be a reading of the findings shows that the Enquiry Officer has applied his mind before coming to a conclusion. Incidentally regarding the opportunity furnished to the worker, it is seen from Ex. M-9, the enquiry proceedings, when the worker was asked whether he was given ample opportunity and the enquiry was conducted impartial, his answer was he was very much pleased during the enquiry. Therefore it cannot be contended that the enquiry was not fair and no opportunity was given to him. Thus it is seen the findings of the Enquiry Officer under Ex. M-11 having not been shown to be perverse. I have no alternative except to accept the findings. Anyway the learned counsel for the Petitioner relying on two decisions reported in 1975-II-L.L.J. page 431 and 1982-II-L.L.J. page 472 contended the charge No. 3 is only due to direct provocation on the words uttered in the circumstances and therefore it is not a misconduct warranting such a punishment.

7. 1975-II-L.L.J. at page 431 (English Electric Co. v. Presiding Officer, Labour Court and another) in that "the Enquiry Officer held charges proved and following that the Respondent was dismissed from service. The Labour Court held the employee should be reinstated but without back wages. It is to quash this order of the Labour Court this writ petition was filed before the High Court. The High Court held the Enquiry Officer has acted in violation of the principles of natural justice in preventing the Respondent worker from putting some questions to the witness. With regard to the word used in that namely (In Regional language) the Labour Court held it was a rude and disrespectful language used by the Second Respondent. The language used was only in general used by labourers in Madras. So holding the order of reinstatement without back wages was passed. The High Court confirmed the order of the Labour Court. It is seen from that decision that it is not, as if, the worker was not imposed any punishment. The Labour Court while holding the punishment of discharge was disproportionately severe, reinstated him without back wages

but continuity of service. It is thus seen though he was reinstated, he was not awarded backwages.

8. In 1982-II-L.L.J. page 472 (Ramu Kant Misra v. State of U.P.) a leading case where the Supreme Court while discussing the purpose of introduction of Section 11-A also discussed whether indiscreet, improper, abusive language merits extreme penalty of dismissal. The threatening language used by the worker in that case is as follows:

"Are other persons your father. I will make you forget your high handedness either here or somewhere else. An officer of yesterday's making discloses power consciousness."

It was held that

"When it is said that language discloses a threatening posture it is the subjective conclusion of the person who hears the language because voice modulation of each person in the society differs and indiscreet, improper, abusive language may show lack of culture but merely the use of such language on one occasion unconnected with any subsequent positive action and not preceded by any blameworthy conduct cannot permit an extreme penalty of dismissal from service."

However the Supreme Court while reinstating the worker-appellant withheld two increments with future effect. It is clear from the above decisions that the language used is indiscreet or indecent. It is further seen from the above decisions that punishment was imposed though the worker was reinstated since the order of dismissal was too harsh. Applying the law laid down in the above decisions, it cannot be contended by the learned counsel for the Petitioner that the workers in those cases have been absolved of the indecent behaviours and therefore they have been reinstated. They were reinstated on the ground the punishment of dismissal was too harsh but lesser punishments were given. In this case also a reading of language used by the worker would definitely amount to indecent behaviour attracting Section 19.5(c) of the Bipartite Settlement. The argument of the learned counsel for the Petitioner is the language was used by reason of direct provocation, cannot be accepted. As a matter of fact the very explanation filed by the Petitioner under Ex. M-7 would throw light on the behaviour of the worker. In his explanation he says that the Accountant told him that he is useless and the salary is waste to the bank. He informed the Accountant not to quarrel with him and if he had any grievance he may refer to the Manager of the Branch and he would refer the matter to the Union for his irresponsible way of behaviour with him. Anyway taking into consideration, the indecent behaviour of the worker in uttering those words (In Regional language) the punishment of stoppage of one increment with cumulative effect is not disproportionate to the charges.

9. It is next pointed out by the learned counsel for the Petitioner that besides he having been transferred the period of suspension is also treated as suspension period. Ex. M-14 is the final order. It says after withholding one increment with cumulative effect his absence from the date of suspension to the date of his reporting for duty at the new station will be treated as suspension only. In this connection, the learned counsel for the Respondent-Bank would refer to 19(12)(b) of the First Bipartite Settlement dated 19-10-66 wherein:

"If some punishment other than dismissal is inflicted the whole or part of the period of suspension, may at the discretion of the management, be treated as on duty with the right to a corresponding portion of the wages, etc."

It is pointed out that it is open to the Respondent-Management to exercise its discretion under 19(12)(b) either by way of treating the period of suspension as punishment or treating as on duty with the right of corresponding portion of wages, etc. In other words, the Respondent-Management has exercised its discretion in this case and taking into consideration of other aspects, that suspension is treated as punishment. Hence it cannot be contended that treating the period of sus-

pension as suspension is contrary to Bipartite Settlement. Similarly the transfer of the Petitioner is the prerogative right of the administration and it cannot be held that has been done beyond the provisions of the Bipartite Settlement. On the other hand it is only on the interest of the worker to avoid any further confrontation with the Accountant, he has been transferred.

10. Viewed from any angle, the worker has not substantiated his case that the punishment imposed on him namely stoppage of one increment with cumulative effect is not justified. For these reasons, this point is found against the Petitioner.

11. In the result, the worker is not entitled to any relief. An award is passed rejecting the claim. No costs.

Dated, this the 16th day of October, 1989.

K. NATARAJAN, Industrial Tribunal

[No. L-12012/63/85-D.II (A)]

WITNESSES EXAMINED

For Both Sides : None.

DOCUMENTS MARKED

For workman :

- Ex. W-1/26-8-83—Summing up of the Defence Representative's argument on the Proceedings of the enquiry conducted on 8-7-83.
- Ex. W-2/3-12-83—Explanation by Thiru C. S. Kannan to the Show Cause Notice issued by the Management.
- Ex. W-3/27-2-84—Appeal filed by Thiru C. S. Kannan before the Appellate Authority.

For Management :

- Ex. M-1/19-7-80—Letter from Management-Bank to Thiru C. S. Kannan regarding deposit mobilisation (Xerox copy)
- Ex. M-2/22-9-82—Report by Thiru N. Raghavanandam, Officer to the Management against Thiru C. S. Kannan (Xerox copy)
- Ex. M-3/23-9-82—Report by Thiru A. Nagaraj, Officer to the Management against Thiru C. S. Kannan (Xerox copy)
- Ex. M-4/23-9-82—Postal receipt for Registered Post (Xerox copy)
- Ex. M-5/24-9-82—Letter from Management-Bank to the Regional Manager, Disciplinary Authority, Indian Bank, Coimbatore (Xerox copy)
- Ex. M-6/27-9-82—Show Cause Notice-cum-suspension order issued to Thiru C. S. Kannan (Xerox copy)
- Ex. M-7/7-10-82—Explanation by Thiru C. S. Kannan to Ex. M-6 (Xerox copy)
- Ex. M-8/23-10-82—Charge-sheet issued to Thiru C. S. 5-11-82 Kannari (Xerox copy)
- Ex. M-9/8-7-83—Proceedings of the Enquiry Officer (Xerox copy)
- Ex. M-10/21-7-82—Summing up of the Management Representative on the Proceedings of the enquiry conducted on 8-7-82 (Xerox copy)
- Ex. M-11/10-10-83—Findings of the Enquiry Officer (Xerox copy)
- Ex. M-12/17-11-83—Decision of Disciplinary Authority regarding proposed punishment (Xerox copy)
- Ex. M-13/17-11-83—Show cause notice issued to Thiru C. S. Kannan (Xerox copy)
- Ex. M-14/12-1-84—Order of punishment issued to Thiru C. S. Kannan (Xerox copy)
- Ex. M-15/27-4-84—Order of Appellate Authority (Xerox copy)

K. NATARAJAN, Industrial Tribunal

का. प्रा. 3069—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संडीगढ़ के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 3069.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI M. S. NAGRA, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, CHANDIGARH

Case No. I.D. 47/86

PARTIES :

Employers in relation to the management of Hindustan Commercial Bank now Punjab National Bank.

AND

Their workman, S. L. Saini.

APPEARANCES :

For the workman—Shri V. K. Gupta.

For the management—Shri V. C. Jaitly.

INDUSTRY : Banking

STATE : Haryana

AWARD

Dated 12-4-1989

On a dispute raised by S. L. Saini against Hindustan Commercial Bank now Punjab National Bank, Central Govt., had vide No. L-12012/119/85-D.IV(A) dated 12th June 1986 referred the following dispute to this Tribunal :

"Whether the action of Hindustan Commercial Bank Ltd. Kanpur in denying the benefit of past temporary service to Shri S. L. Saini, Cashier-cum-Godown Keeper at their branch Faridabad is justified? If not, to what relief is the workman concerned entitled?"

2. During the pendency of the proceedings the parties have amicably settled the dispute and informed the Tribunal accordingly through joint statement dated 16-3-1989. In view of the same a No Dispute Award is returned.

Chandigarh.

12-4-1989.

M. S. NAGRA, Presiding Officer

[No. L-12012/119/85-D.IV(A)]

का. प्रा. 3070—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संडीगढ़ के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 3070.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab National Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI M. S. NAGRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM LABOUR COURT, CHANDIGARH

Case No. I.D. No. 35/89

PARTIES :

Employers in relation to the management of Punjab
National Bank.

AND

Their workman-Smt. Manvati Justa.

APPEARANCES :

For the workman—None.

For the management—Ramesh Chand Thakur.

AWARD

Dated : 11-10-1989

On a dispute raised by the workman against the manage-
ment of Punjab National Bank, Central Govt. had vide
No. L-12012/426/88-D2 (a) dated 20th February 1989 re-
ferred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Punjab
National Bank in terminating the services of
Smt. Manvati Justa is justified ? If not to what relief
is the workman entitled ?"

2. Notice of the reference was issued to the workman
through Regd. A.D. post twice but the same was received
back with the report that inspite of repeated attempts the
addressee was not found available at the given address and in
these circumstances it is not possible to proceed with the
reference.

Reference is therefore returned as a non-prosecution Award.
Chandigarh.

11-10-1989.

M. S. NAGRA, Presiding Officer

[No. L-12012/426/88-D.II(A)]

N. K. VERMA, Desk Officer

नई दिल्ली, 23 नवम्बर, 1989

का० अा. 3071.—औद्योगिक विवाद अधिनियम 1947 (1947 का
का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनाईटेड
बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके
कर्मचारों के बीच अनुबंध के निदिष्ट औद्योगिक विवाद में
औद्योगिक अधिकरण अहमदाबाद के पंचपट को प्रकाशित करती
है जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 23rd November, 1989

S.O. 3071.—In pursuance of section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the award of the Industrial Tribunal, Ah-
medabad as shown in the Annexure in the Industrial dispute
between the employers in relation to the United Bank of
India and their workmen, which was received by the Central
Government.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL (CENTRAL)

AT AHMEDABAD.

Reference (ITC) No. 35 of 1984

ADIUDICATION

BETWEEN

United Bank of India, Ahmedabad.

AND

The workmen employed under it.

In the matter of absorption of Shri R. S. Makwana,
Sub-staff in Bank's regular service

3332 GI/89—11

APPEARANCES :

Shri M. J. Sheth, Advocate for the Bank.

Shri K. V. Gadhia, Advocate for the workmen.

AWARD

This industrial dispute between United Bank of India,
Ahmedabad and the workmen employed under it has been
referred to me under Section 10(1)(d) of the Industrial Dis-
putes Act, 1947 (by the Government of India, Ministry of
Labour and Rehabilitation's Order No. L-12011/4/84-D.II
(A) dated 26th July, 1984.

2. The dispute relates to a single demand of the work-
men which is as under :—

"Whether the action of the management of United Bank
of India, Bombay, in not absorbing Shri R. S.
Makwana, Sub-staff in Bank's regular service is
justified ? If not, to what relief is the workman
concerned entitled ?"

3. In his statement of claim Ex. 4 Shri R. S. Makwana,
the workman concerned has contended that he had worked
as a sub-employee in various branches with the United Bank
of India faithfully, diligently and honestly. That by the
Circular No. PD/89/81 dated 25th June, 1981 the Bank
agreed to absorb all temporary empanelled sub-staff who
were on the list of temporary panels as probationary reliev-
ing sub-staff irrespective of number of days for which they
had worked. Thus the Bank absorbed all temporary sub-
employees from all panels in the State as probationary reliev-
ing sub-staff and a relieving pool was created. As the work-
man concerned was not absorbed in the said panel by the
Bank an industrial dispute was raised before the Assistant
Labour Commissioner (Central) and in reply to that the
Bank stated that it is learnt that the workman concerned was
convicted under I.P.C. Section 379 and 114—Crime Record
No. 721 of 1975 of Prantij, District Sabarkantha and the
photo copy of the said letter was also produced. The
workman concerned has contended that he was never senten-
ced to jail and the person who signed the letter was not
examined and even the workman concerned was not given
chance to clarify the matter and, therefore, the action of the
Bank in not absorbing him in temporary panel is violative
of principles of natural justice. The workman concerned
has further contended that there are no recruitment rules
or regulations prohibiting absorption of such persons and
even in the circular dated 25-6-1981 such persons are not
excluded.

4. The Bank has filed its written statement Ex. 6 opposing
the various contentions taken by the workman concerned.
It has admitted the fact of issuance of circular No. PD/89/
81 dated 25-6-1981 for absorption of the temporary sub-
staff on the list of probationary relieving sub-staff but ac-
cording to the Bank it is a long standing practice prevailing
with the Bank when a person is to be recruited in any
cadre, the Bank calls for a certificate of two reputed persons
regarding his character. In the instant case since the
workman concerned was convicted, he was not included in
the panel of probationary relieving sub-staff. Since the
workman concerned had challenged the action of the Bank by
raising a dispute before the Assistant Labour Commissioner
(Central) at Ahmedabad, the Bank had further inquired, into
the matter and the Bank received the intimation on
20-12-1983 from the Police Sub-Inspector, Prantij, Distt.
Sabarkantha that Shri Ripsinh Shirsinh was convicted in
case No. 45 of 1972 Prantij Police Station and was asked
to give bail for good conduct for the amount of Rs. 500
by the Judicial Magistrate, Prantij.

5. Shri M. J. Sheth, the learned Advocate for the Bank
and Shri K. V. Gadhia, the learned Advocate for the work-
man concerned argued.

6. After going through the facts of the case and hearing
the arguments of the learned Advocates, a very short point
which requires to be considered in this case is whether the
workman concerned was convicted in a criminal case. If he
was convicted whether that would disentitle him for inclusion
as probationary relieving sub-staff in the relieving pool ? The

workman concerned has admitted in his evidence at Ex. 7 that he was convicted in a case of theft in a Prantij Court, Shri Gadia, the learned Advocate for the workman concerned has argued that he was convicted before he joined the Bank and this offence was not committed during the tenure of service. Shri Sheth, the learned Advocate for the Bank has argued that the workman concerned had put in only 60 days service and looking to the past history of the workman concerned, the Bank did not find him desirable for absorption in the relieving pool and the action of the Bank was bona-fide. The persons employed in the Bank have generally to deal with cash and looking to the nature of the duties the Bank has thought it fit not to employ a person who was convicted in the past for the offence of theft.

7. Shri Gadhia for the workman concerned has, in support of his case, relied on a decision in the case of Kiritkumar D. Vyas Vs. the State of Gujarat reported in 1982 G.L.H. p. 687 wherein it has been laid down by Their Lordships that mere conviction on a criminal charge would not dispense with the requirement of at least an application of mind on the part of the disciplinary authority on the question of quantum of punishment after affording reasonable opportunity to the delinquent to be heard in regard to the quantum of punishment. Mere conviction cannot be utilised for passig an order of dismissal blind foldedly without hearing the delinquent on the question of punishment. Relying on this it was argued by Shri Gadhia that in the instant case the workman concerned was not absorbed and it was wrongly believed by the authorities concerned that he was convicted.

8. I have considered this contention of Shri Gadhia and I am of the view that the facts of the case relied on by Shri Gadhia are rather different. In the case relied upon by Shri Gadhia the workman was dismissed after a long service of 15 years which means that there was a question of dismissal of a permanent workman. While in the instant case the question is of a person who has put in only 60 days of service and that too purely on temporary basis. Moreover, there we are concerned with the question of absorption in the regular cadre and certainly it would be proper and advisable for any employer especially the Bank herein to consider the question of conviction of a person who desires to be absorbed in the Bank's service. The charge against the workman concerned was one of theft for which he was convicted. This fact has also been admitted by the workman concerned in his cross-examination. As against this Shri M. J. Sheth appearing for the Bank relied upon a decision reported in 1988 I L.L.J. page 447 decided by the Hon'ble Gujarat High Court wherein it has been held by His Lordship that for a post where there are recruitment rules which provide that recruitment shall be in accordance with the rules by a Selection Committee, it cannot be said that the person who is appointed purely on an ad hoc basis without following the proper procedure would get a right to be appointed permanently on the post. From the above it is clear that an employee who has been employed purely on temporary basis and when there are rules and regulations for recruitment, it cannot be said to be the right of an employee to be made permanent to be absorbed in regular cadre herein). Thus, in my opinion, the action of the Bank in not absorbed the workman concerned who has put in only 60 days of service and when it is an admitted fact that the said workman was convicted for the offence of theft, it cannot be said that the impugned action of the Bank can be said to be in any way improper. At the same time there are no mala fides alleged or proved on the part of the Bank. In my opinion an institution like the Bank has every right and also a duty to screen persons at the time of giving employment or making them permanent.

9. For the reasons stated above, the demand made by the workman concerned is hereby rejected. No order as to costs.

Ahmedabad.

Date : 6th October, 1989.

Sd/-

G. S. BAROR, Presiding Officer
[No. L-12011/4/84-D.II(A)]

का. आ. 3072-- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबन्धकों के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 3072. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial dispute between the employers in relation to the Bank of Baroda and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI S. J. SHETH, INDUSTRIAL TRIBUNAL
AHMEDABAD

Ref. (ITC) No. 13 of 1988

ADJUDICATION

BETWEEN

Bank of Baroda, Vadodara.

AND

The workmen employed under it.

In the matter of termination of services of Jumaben M. Vasava and appointing another lady on her behalf without considering of Jumaben for the last 7 years is justified and legal and if not what relief the concerned workman is entitled to.

APPEARANCES :

Shri R. V. Desai, Advocate, for the Bank.

AWARD

The Government of India, Ministry of Labour by its Order No. 12012/537/87-D-11/A dated 4th July, 1989 has referred an industrial dispute between the Bank of Baroda Sadhali Branch and its workman Smt. Junmaben M. Vasava for adjudication under provisions of Section 10(1)(d) of the Industrial Disputes Act, 1947, to a Tribunal at Ahmedabad and ultimately it has been referred to me. As per the Annexure the following dispute is to be adjudicated. Whether the action of the management of the Bank of Baroda, Sadhali Branch in terminating the services of Smt. Jumaben M. Vasava and appointing another lady on her behalf without considering the service of Jumaben for the last 7 years is justified and legal? If not, what relief the concerned workman is entitled to?

2. Jumaben has filed her statement of claim at Ex. 2. According to her she was appointed as a Sweeper and water woman in the Sadhali branch of the Bank of Baroda from the date it was started at Sadhali and she worked as such for number of years. She was also working as a maid servant at the residence of the Manager of the Bank and was paid separately for the same. In 1986 when the new Manager came she was paid Rs. 15 per month for the house work. When she demand Rs. 30 per month she was asked not to work at his place. On 1-12-86 she fell ill and could not go to work. As the new Manager was prejudice against her, he employed a new maid servant in her place on 4-12-1986. She approached the Manager with a medical certificate on or about 7-12-86 when she was informed that her services were not required any more as a new maid servant had already been appointed. She then made several representations to the authorities, but she did not receive any satisfactory reply. She therefore, approached the Asstt. Commissioner of Labour, Central at Ahmedabad, who made this reference.

3. She also filed an additional statement of claim at Ex. 7 wherein almost the same things were repeated. She further stated that she was not given any notice nor any enquiry was held nor she was paid any retrenchment com-

pensation and as such the act of the Bank management was illegal and prejudicial and prayed that the Act of the management of the Bank of Baroda, Sadhali Branch terminating her services should be declared illegal and void and the Bank should be ordered to reinstate her in her original place with continuity of service with full back wages.

4. The Bank Management by its written statement at Ex. 9 submitted that Jumaben was only a casual worker and as such no relations of master and servant existed between her and the Bank and as such this court has no jurisdiction to adjudicate the matter. It further stated that jurisdiction to adjudicate the matter. It further stated that premises and of fetching water for the Branch from 1980, that she worked only for half an hour for this purpose in the morning before banking hours. That she was very irregular and the entrusting her job often to other members of her family, that her work was also quite unsatisfactory, that she stopped reporting for work from 1-12-86 continuously without any intimation and the Bank was therefore compelled to make alternative arrangement for cleaning the Branch premises and fetching water by engaging another lady on casual basis, and that on the circumstances the demand made by the concerned workman is not justified and the reference deserves to be rejected.

5. The concerned workman Jumaben M. Vasava has given an evidence at Ex. 10. She has stated therein that she joined the Bank as a Sweeper about 10 years ago when its Branch was started at Sadhali. In the beginning she was paid Rs. 10 per month but afterwards it was raised from time to time and in 1986 she was paid Rs. 108 per month. On account of her sickness she could not perform her duties for a week. She was removed from service without giving her any notice, or any compensation. In cross examination it was suggested to her that she was more than 60 years of age but she denied that fact. She also denied that she had herself voluntarily abandoned the job. She admitted that she was not given any appointment order at the time of appointment. She also admitted that after she was removed from service she was intermittently working at some places and earning about Rs. 20 per month.

6. On behalf of the management of the Bank Mr. Has-mukhbhai Muljibhai Patel, agent of Sadhali Branch has given evidence at Ex. 14. He has stated in his evidence that Jumaben used to come early in the morning at about 8 A.M. and finish her work in 30 or 40 minutes. He further stated that Jumaben used to send other members of her family whenever she was not able to come herself for work. He has further stated that he had received some complaints about her work from the staff members as she was quite irregular in her attendance. According to him Jumaben stopped coming from 1-12-86 without any intimation for about 15 days and as such he had engaged another lady on 4-12-86. He has further stated that Jumaben was not a regular employee of the Bank and her name was not entered in the muster roll. He has also admitted that her salary used to be credited in her pass book every month and she was also given bonus every year. He has further stated that according to the rules of the Bank the retiring age of a workman is 58 years. In his cross examination he admitted that he had not given any notice to Jumaben before removing her from service, and had not made any enquiry as to why she had remained absent from 1-12-86. He denied that Sushilaben Darji who is now employed as a Sweeper in place of Jumaben is also working at his residence.

7. From the evidence on record it is quite clear that Jumaben was appointed as a sweeper and water woman as a part-time worker in the Sadhali Branch of Bank of Baroda from the date it was started, and she continued to work as such for about 10 years before she was removed from service in the month of December, 1986. It is an admitted position that as Jumaben could not attend her duties for about 4 days from 1-12-86 without giving any notice to her or without making an effort to know why she was remaining absent, she was dismissed from service and a new lady Sushilaben was employed in her place. It is also an

admitted position that no compensation was paid to her at the time of removing her from service.

8. The learned advocate of the Bank Shri R. V. Desai has vehemently urged that Jumaben was only a casual worker and was doing the work of sweeping the bank premises and fetching water for the staff members before the Bank opened and as such she cannot be treated as a regular employee of the Bank. And hence this reference is not maintainable. This contention of Shri Desai cannot be accepted. It is now a settled principle that if an employee is doing the work which is incidental to the work of an industry he can be treated as a regular employee of that industry. A learned Judge of the Kerala High Court has in a case reported in Lab. I.C. 1987 well set page 102 held that as keeping the toddy shop clean and tidy and incidental activity connected with the sale of toddy, the person who sweeps and cleans the toddy shop as a important cog in the wheel of the toddy trade, and therefore a female employed for sweeping and cleaning the toddy shop is an employee and she is entitled to be reckoned for the purpose of remittance towards the welfare fund as provided under the Act.

9. The learned judge for the above decision had relied on a decision of the Supreme Court in JK Cotton Spinning and Weaving Mills Co. in Lab. I. G. AIR 1964 SC 737. He quoted the following observations of the Supreme Court :

"It is, of course, not very easy to decide what is the field of employment included by the principle of incidental relationship, and what would be the limitations of the said principle? If sweepers are employed by the appellant to clean the premises of the Mills, that clearly would be work incidental to the main industry itself, because though the work of the sweepers has no direct relation either with the spinning or weaving, it is so manifestly necessary for the efficient functioning of the industry itself that it would be irrational to exclude sweepers from the purview of 3.2 (s)".

From the above decision it is quite clear that a Sweeper can also be treated as a regular employee of the Industry. In the present case it is an admitted position that it was the duty of Jumaben to clear the bank premises every day and to fetch water for the bank staff. This duty was definitely incidental to the working of the bank and hence the contention of Shri Desai that Jumaben cannot be considered as a workman under the provisions of Section 2(s) of the I. D. Act, 1947 cannot be accepted.

It is further an admitted position that Jumaben had worked for about 10 years continuously before she was removed from service. Still no notice was given to her and no retrenchment compensation was paid to her at the time of removing her. It is now an admitted position in law that if an employee is removed from service for no reason other than by way of punishment for misconduct it would amount to retrenchment and as such the employee would be entitled to one month's notice or one month's pay and retrenchment compensation as per the provisions of Section 25-F of the Industrial Disputes Act. It was strongly urged by the learned advocate of the Bank that as Jumaben was only a part-time worker and was working only for 45 minutes every day provisions of Section 25-F would not apply and therefore the order of the management cannot be said to be violation of section 25-F of I.D. Act for want of any notice or payment of retrenchment compensation, as per the provisions of Section 25-F of the I. D. Act, 1947. This contention of Shri Desai also cannot be accepted. It is now a settled principle that a part-time worker is also entitled to retrenchment compensation if he has worked for more than one year continuously. In a decision reported in FLR 1988 p. 415 in SCA No. 4853 of 1987 of Gujarat High Court between Govindbhai Kanabhai versus District Judge, Narol Shri N. K. Desai, Narol, Ahmedabad, His Lordship Justice Jureshi Gujarat of High Court has held that provisions of Section 25-F of the Act would also apply to part-time worker if his services are continuous.

For this decision his Lordship relied on the decision of Division Bench of the Gujarat High Court in Spl. Civil

Application No. 3063 of 1986 in Gujarat State Road Transport Corporation versus B. D. Joshipura, wherein their Lordships held that a doctor who was doing a part-time job for 18 years can be easily considered as a workman coming under the definition of the workman under the Industrial Disputes Act and the provisions of Section 25-F of the I.D. Act would be applicable in his case.

11. The learned advocate of the Bank further submitted that as Smt. Jumaben was only working for 45 minutes a day she had never completed 240 full working days in a year and as such provisions of section 25-F would not be applicable in her case. There is no substance in this contention of Shri Desai also. According to the provisions of Section 25-F if a workman has been in continuous service for not less than one year under an employer he would be entitled to retrenchment compensation. In this case it is an admitted position that Jumaben was in continuous service of the Bank for 10 years without any break before her services were terminated and therefore it cannot be said that she was entitled to retrenchment compensation. The contention of Shri Desai is that as Jumaben had not completed 240 full working days in any year cannot be accepted as the question whether a worker had worked for 240 days in the preceding year or not would arise only if the worker has not worked continuously for more than a year. Further the contention of Shri Desai that for having eligible for retrenchment compensation one has to put in full 240 days also cannot be accepted. Shri Desai for his proposition has relied upon a decision reported in 1963 (6) FLR/p. 348 = 1962 SO p. 1591 in the matter of Bikusa Jamasa Kshtriya versus Union of India. In that case the Supreme Court had observed that for being eligible for benefits under the provisions of Section 79 of the Factories Act, a worker should have put in 240 full working days. But in that very judgement the Supreme Court has explained that this would be applicable in a case only where under the provisions of Section 85 of the Factories Act, the State Government has issued a notification applying all the provisions of the Factories Act to workers who would generally not be workers under the Factories Act. Those would be treated as deemed workers. The Court has also said that for a regular worker under the Factories Act, it would not be necessary to work for 240 full working days in order to get benefits under the provisions of the Factories Act.

12. In view of the above discussion I hold that as Jumaben who was a regular part-time employee of the Bank was retrenched without given any notice or making payment of retrenchment compensation as per the provisions of Section 25-F of the Industrial Disputes Act the order of dismissal is bad in law and deserves to be set aside. In the circumstances generally the employee would be entitled to reinstatement with full back wages. The learned advocate of the Bank Shri Desai has submitted that as retiring age as per the rules of the Bank is 58 years and as per entry in the voters list at Ex. 121 of the Legislative Assembly her age as on 1-1-1988 was 59 years, the question of reinstating Jumaben would not arise. It is difficult to agree with Shri Desai on this point also. There is no evidence as to what basis age of Jumaben was entered in the voters list and as such no reliance can be put on such entry. There is no other evidence regarding the age of Smt. Jumaben and as the agent of the Bank has admitted that there is no rule for retiring a part-time worker like a sweeper, in my opinion reinstatement cannot be denied to Jumaben. As far as question of back wages is concerned no doubt, it is an admitted fact that Smt. Jumaben is earning about Rs. 20/- per month by doing job work, but in my opinion merely for that she cannot be denied full back wages. It is an admitted position that Jumaben was only working as a part-time worker and there is nothing to show that while she was working in the bank she was not doing any other extra work and was not earning anything, over and above what she got from the Bank. Moreover the amount admitted by Jumaben is very paltry and as such also it would not be proper not to grant her back wages. I, therefore, hold that there is a fit case where the concerned workman should be awarded full back wages. I therefore pass the following order.

ORDER

Reference is accepted. It is hereby declared that the act of the management of the Bank of Baroda, Sadhali Branch, removing the concerned workman, Smt. Jumaben from ser-

vice is illegal and unjustified and it is hereby ordered that the Bank should reinstate her in her original position with continuity of service and pay to her full back wages from 1-12-86 till the date of reinstatement, within 30 days of the receipt of this Order.

It is further ordered that the Bank should also pay Rs. 200/- by way of cost to the concerned workman.
S/D. G. J. DAVE, Secy.
Ahmedabad, 18th October, 1989.

Sd -

S. J. SHETH, Presiding Tribunal
[No. L-12012/337/87-D. II (A)]

का. आ. 3073--औद्योगिक विवाद अधिनियम 1947
(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार
सेन्ट्रल बैंक आफ इंडिया के प्रबन्धन में संबद्ध नियोजकों
और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक
विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2
बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार
को प्राप्त हुआ था।

S.O. 3073.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 2, BOMBAY

Reference No. CGIT-2/4 of 1987

PARTIES

Employers in relation to the management of Central
Bank of India

AND

Their Workmen

APPEARANCES

For the employers.—Shri S. Kothanda Raman, Chief
Officer (Law).

For the workmen.—Shri Subhas Naik, Secretary, Goa
Bank Employees Association.

INDUSTRY : Banking

STATE : Goa.

Bombay, the 12th October, 1989

AWARD

The Central Government by their order No. L-12012/143/86-D.II(A) dated 15-1-1987 have referred the following industrial dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

"Whether the action of the management of Central Bank of India, Goa Regional Office through its Manager at Vasco-da-Gama in terminating the services of S/Shri Zanak Bahadur and Ram Bahadur Thapa w.e.f. 14-10-1985 and in engaging other watchmen is justified. If not to what relief the workmen concerned are entitled?"

2. The case of the two workman S/shri Zanak Bahadur and Ram Bahadur Thapa as disclosed from the statement of claim Ex. 2/W in short, is thus :—

The said Bank had advanced huge loans to M/s. Mandovi Shipyard Pvt. Ltd., Zuarinagar. As the said amounts were not repaid, the Bank filed a civil suit against the said company for the recovery of the amount. The Court at Margao appointed a Court Receiver to look after the property of M/s. Mandovi Shipyard Pvt. Ltd. in 1982. The Court Receiver authorised the Manager of the said Com-

pany to appoint watchmen to look after the property of M/s. Mandovi Shipyard Pvt. Ltd. and to pay them their wages. The said two Watchmen learnt from Shri Moti Singh Gorkha, Chief of Security Staff of the Bank, that the Bank was in need of watchmen to guard the property of M/s. Mandovi Shipyard Pvt. Ltd. On his advice the said two workmen contacted the Manager of the said Bank at Vasco-da-Gama, and he, after an oral interview, asked them to report to Shri Moti Singh Gorkha for duty. No written appointment orders were issued to them. While Shri Ram Thapa was appointed from 31-1-1983, Shri Zanak Bahadur was appointed from 5-9-1984 to work as Watchmen at consolidated wages of Rs. 600 per month. Both the workmen worked continuously from the said dates honestly and sincerely. The Manager of the Bank used to counter-sign the vouchers under which they were paid their wages. Both of them were under the direct supervision of Shri Moti Singh Gorkha, Chief of the Security Staff.

- (ii) On 14-10-1985 when both the said workmen went to attend their work as usual, the above said Shri Moti Singh told them that under the instructions from the Bank, their services were being terminated from the close of that day. No written order of termination of service was issued to them. One month's notice was not given nor retrenchment compensation was paid to them. Even the wages for the month of October 1985 were not paid to them. While the Bank terminated the services of the said two workmen, the Bank had engaged certain two new Watchmen. As such, the termination of the services of the two workmen was in violation of the provisions contained in Sections 25F and 25H of the Industrial Disputes Act. Thereafter the Watchmen by their letters dated 21-10-1985 requested the Bank for their reinstatement in service. However, the Bank by its reply dated 31-10-1985 denied that they were ever employed by it, and stated that M/s. Mandovi Shipyard was in possession of the Court Receiver. Thereafter an industrial dispute was raised before the Assistant Labour Commissioner (C). However, as the conciliation proceedings ended in failure, the Central Government made the reference, as above. The said workmen had never met the Court Receiver. They were appointed by the Bank, and they were paid their wages by the Bank. The workmen therefore prayed that the Bank be directed to reinstate them in service with full back wages and continuity of service.

3. The Chief Manager of the Central Bank of India by his written statement (Ex. 3/M) contested the claim of the workmen, and in substance contended thus :—

The workmen in question were not appointed by the Bank at any time. The Bank had advanced some amount to one M/s. Mandovi Shipyard Pvt. Ltd. Goa. As the amount was not re-paid, the Bank filed a Civil Suit for the recovery of the amount of Rs. 1.82 crores. On the request of the Bank, a Court Receiver was appointed to take possession of the said company. Thereafter, all the properties of the company went in the possession of the Court Receiver from 3-2-1983. The said Receiver sought the help of the Branch Manager of the Bank for getting the services of certain watchmen for looking after the plant and unit of the Company. The Bank lent the services of one watchman Shri Moti Singh Gorkha, an employee of the Bank, for that purpose. However, the services of more watchmen were necessary to safeguard the property of the said company. Therefore, the Court Receiver requested Shri Moti Singh Gorkha to procure some more additional watchmen. The two workmen in question were procured by Shri Moti Singh Gorkha to assist the Court Receiver in the matter of safeguarding the property. Those

watchmen were not appointed by the Bank, much less after the oral interview. There is no privity of contract between those workmen and the Bank. The Bank had acted on the directions and instructions of the Court Receiver. The two watchmen were under the control and supervision of the Court Receiver. The workmen were under the direct supervision of the Chief of the Security Staff, who himself was under the supervision of the Court Receiver. The workmen did not complete 240 days of continuous service in the Bank. The Bank was making the payment on behalf of the Court Receiver and the Court Receiver used to reimburse the amount to the Bank after getting the necessary approval from the Court. The services of the two workmen were not terminated by the Bank management as they were not in the service of the Bank management. As such the two workmen are not entitled to claim any relief from the Bank Management.

4. The Issues framed at Ex. 4 are :—

1. Whether the two workmen Shri Zanak Bahadur and Shri Ram Bahadur Thapa prove that they were employed in service by the Central Bank of India, Goa Region, respectively from 5-9-1984 and 31-1-1983, to guard property of M/s. Mandovi Shipyard Pvt. Ltd. at Zuarinagar ?
 2. Whether the said Bank wrongfully terminated the services of the said two workmen, and contravened the provisions contained in Section. 25F and 25H of the Industrial Disputes Act ?
 3. Whether the said two workmen are entitled for reinstatement in the services of the said Bank ?
 4. To what other relief, if any, they are entitled ?
 5. What order ?
5. My findings on the said Issues are :—
- (1) No
 - (2) Does not survive
 - (3) No
 - (4) Nil
 - (5) As per the Award.

REASONS

ISSUE No. 1 :

6. According to the said two workmen, Shri Zanak Bahadur and Shri Ram Bahadur Thapa, they were appointed in service by the Manager of the Central Bank of India, Goa, while according to the Bank management these two workmen were not appointed by the Bank, but by the Court Receiver. It is an admitted fact that these two workmen (watchmen) were looking after the property and were guarding the property of M/s. Mandovi Shipyard Private Ltd, at Industrial Estate, Zuarinagar, Goa. It is also an admitted fact that the said Bank had filed a Civil suit against M/s. Mandovi Shipyard Pvt. Ltd. for the recovery of their amount, and that pending that suit, a Court Receiver was appointed by the Court to take possession of the property of the said company. From the Voluminous documentary evidence on record, I find that the said two workmen were appointed by the Court Receiver, and so by the Bank. I will deal with the documentary evidence on record first.

7. At Ex. 9/M, there are a number of receipts passed by the workman Shri Zanak Bahadur after having received the wages from the Central Bank of India (Court Receiver for Mandovi Shipyard Pvt. Ltd.). The receipts are of different dates of the period during which the said two workmen were in service. The receipts stated that the workmen Shri Zanak Bahadur received from Central Bank of India (Court Receiver for Mandovi Shipyard Pvt. Ltd.) the sum of Rs. 600 (Rupees six hundred only) being the wages for the period, ... for having worked as watchman at

Mandovi Shipyard Ltd. Oxygen Plant. Thus, these receipts clearly stated that wages were received by the workman Shri Zanak Bahadur from the Court Receiver of amount was received from the Central Bank of Mandovi Shipyard Pvt. Ltd. even though the actual India. Before the amounts used to be paid, the senior watchman Shri Moti Singh used to send letters to the Branch Manager of the Bank informing him that the workman Shri Zanak Bahadur, posted at Mandovi Shipyard Pvt. Ltd. had worked from a particular date upto a particular date. So, on the basis of that note, the amounts used to be said by the Bank. All these letters sent by Shri Moti Singh to the Bank on different dates are at Ex. 9/M. Even then I find that the Central Bank was making payments on behalf of the Court Receiver. Similar letters sent by the senior watchman Shri Moti Singh in respect of the other workman Shri Ram Bahadur Thapa, and the receipts passed by him after having received the amounts from the Central Bank of India (Court Receiver for Mandovi Shipyard Pvt. Ltd.) on different dates are at Ex. 10/M.

8. Ex. 18/M is a copy of the letter dated 1-2-1983 by the Court Receiver to the Divisional Manager of the Central Bank of India, Goa. By this letter, the Court Receiver suggested for the appointment of two watchmen to guard the property of the said company. Thereafter the Court Receiver stated thus :

"As the plant is out of production, the creditor Bank should arrange for payment to such watchman so that the monies so spent may thereafter be realised from the assets of the Defendants/Judgment-Debtors."

It is thus quite clear from this letter that for the sake of convenience, the Bank was firstly to pay the actual amounts, were to be realised from the assets of the said company i.e. Mandovi shipyard Pvt. Ltd., and then to be paid to the Bank. Ex. 19/M is another letter by the Court Receiver dated 23-2-1987 addressee to the Branch Manager of the Bank. It is seen from this letter that the services of senior watchman Shri Moti Singh were lent by the Bank to the Court Receiver. By this letter the Court Receiver asked the Branch Manager of the Bank to instruct the senior watchman Shri Moti Singh to appoint two watchmen to guard the property of the said company. However, as the services of senior watchman Shri Moti Singh were lent to the Court Receiver, Shri Moti Singh was then working under the instructions of the Court Receiver. It, therefore, follows that the two watchmen in question were appointed by Shri Moti Singh and were also working under the instructions of the Senior watchman Shri Moti Singh and the Court Receiver. Ex. 20/M are the extracts of the Sundry Expenses on account of Mandovi Shipyard Pvt. Ltd. (under Receivership). It is seen from the documents that the Bank had opened sundry expenses account in the Bank. It is seen from these extracts that the wages at the rate of Rs. 600 per month were paid to Shri Zanak Bahadur and Shri Ram Bahadur Thapa from time to time by the the Bank. However, it is quite clear from the heading of the account itself that sundry expenses were to be paid on the account of Mandovi Shipyard Pvt. Ltd. (under Receivership). Even though the Bank was making the actual payment, the amounts were spent on behalf of the Court Receiver of Mandovi Shipyard Pvt. Ltd.

9. Ex. 21/M is a copy of the letter dated 27-5-1983 by the Branch Manager of the Bank of the Court Receiver. By this letter the Branch Manager had informed the Court Receiver that on behalf of the Court Receiver a sum of Rs. 33,801.85 was paid by the Bank towards different expenses. The Branch Manager by this letter further requested the Court Receiver to make arrangement to release the amount of Rs. 33,801.85 to the Bank. These amounts were spent by the Bank on behalf of the Court Receiver. Ex. 22/M is a copy of the application dated 17-2-1983 made by the Court Receiver to the Court of the Civil Judge, Senior Division, at Margao in the Special Suit filed by the Bank in question against Mandovi Shipyard Pvt. Ltd. In this application the Court Receiver stated that while taking possession of the Oxygen plant, he had appointed watchmen for permanent duty, and that they were appointed through the Manager, Central Bank of India, Vasco Branch. Thus we

find the names of the two workmen Shri Ram Bahadur Thapa and Zanak Bahadur, who had worked at the said place during a particular period. These two watchmen were appointed by the Court Receiver through the Manager of the Central Bank of India. It is further seen from this application that the salary of the said two watchmen and the other amounts were to be paid. By this application the Court Receiver had requested for the disbursement of the necessary amount from the account opened in the name of Mandovi Shipyard Pvt. Ltd. Thus, the wages were to be paid by the Court Receiver, even though the actual amounts were initially paid by the Bank, but the Bank was to be reimbursed by the Court Receiver. Ex. 23/M is a copy of letter dated 7-11-1983 by the Branch Manager of the Bank to the Court Receiver. By Bank, but the Bank was to be reimbursed by the Court Receiver that on his behalf the Bank had spent a sum of Rs. 47,633.45 till the date of that letter. It is seen from the annexure to that letter that the amounts included the amounts of wages paid to the two workmen in question namely S/Shri Ram Bahadur Thapa and Zanak Bahadur at the rate of Rs. 600 per month. Thus the Bank had made payments to those workmen for and on behalf of the Court Receiver. By the said letter the Branch Manager asked the Court Receiver to release the said amount of Rs. 47,633.45 to the Bank at an early date. Thus, from all the said documentary evidence I find that the said two workmen were in the service of the Court Receiver, who had appointed them through Shri Moti Singh, the Chief Watchman, that the relationship of master and servant existed between the Court Receiver and those two watchmen and that those two watchmen were not appointed by the Bank itself, and the Bank was not spending for their wages, and no relationship of master and servant existed between the Bank and the two watchmen in question. I will now deal with the oral evidence on record.

10. The workmen in question viz. Ram Bahadur and Zanak Bahadur filed their respective affidavits at Exts. 5/W and 7/W. Both of them were cross-examined on behalf of the management. Three witnesses were examined on behalf of the Bank management, viz., the chief of Security Staff Shri Moti Singh, the then Branch Manager Shri Otto J. Nazareth and the Court Receiver Shri C. Xavier. These three witnesses filed their respective affidavits at Exhibits 11/M 13/M and 15 M. They were cross-examined on behalf of the workmen. The workman Shri Ram Bahadur Thapa (Ex. 5/W), in substance stated in his affidavit thus :—

He was appointed to work as a watchman by Manager, Central Bank of India since January 1983 on wages of Rs. 600 per month. He had learnt about the vacancy in the Bank through Shri Moti Singh, the other watchman. Shri Moti Singh had taken him to the Manager of the Bank, who then appointed him. The Manager had told him that he had to work as a watchman at the place of Mandovi Shipyard Pvt. Ltd, Zuarinagar, Goa. Shri Moti Singh used to keep his attendance and he used to supervise him. The other workman Shri Zanak Bahadur by his affidavit (7/W) also stated to the same effect. Both these workmen stated in their evidence that they had not seen or met any Court Receiver, that all their dealings were either with Shri Moti Singh or through the Branch Manager of the Bank. However, in view of the documentary evidence as above, I do not believe the evidence of these two workmen that they were appointed by the Branch Manager of the said Bank.

11. Shri Moti Singh (Ex. 11/M), Chief of the Security, in substance stated in his affidavit thus :—

He was working in the Central Bank of India, Goa. In January 1983 he was directed by the Branch Manager of the Bank to report for duty at Oxygen Plant of Mandovi Shipyard Pvt. Ltd. as his services were required there, and he was to work under the instructions of the Advocate Shri C. Xavier, i.e., The Court Receiver. The Court Receiver had instructed him to procure the services of some more watchmen to protect the property of the said company. Accordingly he brought one watchman and the other senior

watchman brought another watchman. Wages of Rs. 600 per month were agreed to be paid to them. As the Court Receiver had no funds at his disposal either allotted by the Court or by the Bank, he directed the Bank to make payments to the watchmen till an alternative arrangement was made or until the property was sold. From January 1983 to October 1985 he had procured the services of about 16 to 17 watchmen including Shri Zanak Bahadur and Ram Bahadur i.e. the workman in question, to work at the said place. He himself was working under the instructions of the Court Receiver. He denied the suggestion that the said two watchmen on wages of Rs. 600 per month. The of the Bank or they were appointed by him.

In his cross-examination he clearly stated that he had appointed the said workmen on the instructions of the Court Receiver.

12. Shri Otto J. Nazereth, the then Branch Manager of the bank (Ex. 13/M) stated in his affidavit thus :—

He was then working as a Branch Manager of the said Bank in Goa. The Advocate Shri C.Xavier was appointed as a Court Receiver to take possession of the property of Mandovi Shipyards Pvt. Ltd. The Court Receiver had suggested that the services of some outsiders should be procured to guard the property of the said company. The senior watchman Shri Moti Singh was authorised to appoint two more watchmen on wages of Rs. 600 per month. The Court Receiver suggested that the Bank should make the payment of wages to the Watchmen as he was not having funds with him and the amounts so spent may thereafter be realised from the sale proceeds of the property of the said company.

The Branch Manager denied the suggestion that the two watchmen in question were appointed by him. As the Court Receiver had told him i.e. Branch Manager, that the amounts spent by the Bank would be reimbursed from the sale proceeds of the property of the company, the Bank had opened separate account in the name of Sundry Expenses Account Mandovi Shipyards Pvt. Ltd (under Court Receivership) and debited all the expenses incurred on behalf of the Court Receiver. The Branch Manager stated in his affidavit that on 27-2-1983 he had sent a letter to the Court Receiver seeking reimbursement of the amounts spent by the Bank on behalf of the Court Receiver. The Branch Manager lastly stated in his affidavit that the watchmen appointed by Shri Moti Singh were never supervised by him or by any of the Bank Officers at any time.

13. The Court Receiver Shri C.Xavier (E. 15/M) in substance stated in his affidavit thus:—

He was appointed as a Court Receiver by the Civil Judge Senior Division, Margao, in the special Suit filed by the Central Bank of India against Mandovi Shipyards Pvt. Ltd. He took possession of the entire property of the said company. The Bank lent the services of Shri Moti Singh and one more watchman to him, in the matter of protecting the property of the said company. Shri Moti Singh and the other watchman Shri Khadak Singh thereafter procured the services of two more watchmen to guard the property of the said company. The Court Receiver further stated in his affidavit that as he was not provided with sufficient funds by the Court or by the Bank to incur expenses, he had requested the Bank to incur expenses, and that he would move the Court in due course for the reimbursement of those amounts to the Bank from out of the sale proceeds of the property of the said company. However, the entire amount would be reimbursed to the Bank from out of the sale proceeds of the property of the said company.

In view of the said documentary evidence, I believe the affidavits of the senior watchman Shri Moti Singh, the Branch Manager and the Court Receiver as above.

14. In the result relying upon the oral evidence as well as the documentary evidence as above, I find that the said two workmen i.e. watchmen were appointed in service by the Court Receiver, and not by the Branch Manager of the said Bank. No relationship of master and servant existed between the Bank and the said two workmen (watchmen). Issue No. 1 is, therefore, found in the negative.

15. As the two watchmen were not appointed by the Bank, no question of any wrongful termination of their service by the Bank survives. As such the two workmen are not entitled to reinstatement in service of the Bank, and they are not entitled to any relief from the Bank. Issues Nos. 2, 3 and 4 are found accordingly.

Issue No. 5

16. In the result the following award is passed.

AWARD

The two watchmen S/Shri Zanak Bahadur and Ram Bahadur Thapa were not appointed in service by the Bank management. As such no question of their wrongful termination of service by the Bank survives. They are, therefore, not entitled to reinstatement in service of the Bank and are entitled to no relief from the Bank.

Parties to bear their own costs of this reference.

Sd/-

P. D. APSHANKAR, Presiding Officer
[No. L-12012/143/86-D.II(A)]

का. आ. 3074—औद्योगिक विवाद अधिनियम, 1947 (1947)
का 14) को धारा 17 के अधिनियम में केन्द्रीय सरकार बैंक आक इंदिया के प्रबन्धन के संबंध निर्देशकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जलपुर के पंदाद को प्रकाशित करता है जो केन्द्रीय सरकार को प्राप्त हुआ था ।

S.O. 3074.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(124)/1988

PARTIES:

Employers in relation to the Bank of India, 22 Yashwant Niwas Road, Indore and their workman, Shri Punam Chand S/o Shri Gangaram Mali, Amir Hasan Building, Shajahanabad, Bhopal (M.P.)

APPEARANCES:

For Workman—Workman himself.

For Management—Shri Mangal Singh.

INDUSTRY : Banking DISTRICT : Indore (M.P.)

AWARD

Dated, October 20th, 1989

The Government of India, Ministry of Labour vide its order No. L-12012/287/88-D2(A) dated 30th November, 1989

referred "the following dispute to this Tribunal, for adjudication :—

"Whether the action of the management of Bank of India for terminating the service of Shri runam Chand and not considering him for further employment while recruiting fresh hands under Section 25H of the I.D. Act is justified? If not to what relief is the workman entitled?"

2. In short the workman's claim was that he worked with the Bank management for a continuous period from 1981 to 1986 without any gap. The management did not give him any appointment letter and stopped him from working from January 1987 as the Non-applicant was interested in the appointment of somebody else in his place. Termination of his services was therefore illegal and a prayer was made that the Non-applicant be directed to reinstate the applicant workman with full back wages.

3. Parties settled the claim before this Court in following terms :—

(a) Towards full and final settlement of workman's claim the employer bank offers the workman the appointment of Part Time Sweeper on the 1/3rd scale wage on regular basis.

(b) That the workman's appointment on the stated position shall be within the overall frame work of Bank's rules.

(c) That the workman shall not claim back wages and/or any other benefits for his past service rendered with the employer Bank.

(d) The workman's present posting shall be at Betma Branch of the employer Bank. This posting shall be within the over-all frame work of the Bank Rules.

4. The said compromise was filed by the applicant workman and Shri Mangal Singh, Industrial Relation Officer, Bank of India, Indore Region, 22 Y. N. Road, Indore, M.P. The authority to represent the Bank was filed before this Court.

5. The said compromise was verified by me. Parties said that they have compromised in terms of the petition of settlement filed by them. It is just and lawful. The terms of settlement are recorded as above and award is passed accordingly.

V. N. SHUKLA, Presiding Officer

[No. L-12012/287/88-D.II(A)]

नई दिल्ली, 24 नवम्बर 1989

का. भा. 3775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कारपोरेशन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 बम्बई के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 24th November, 1989

S.O. 3075.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure in the industrial dispute between the employers in relation

to the Corporation Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

Reference No. CGIT-2/23 of 1987

PARTIES :

Employer in relation to the management of Corporation Bank.

AND

Their workman.

APPEARANCES :

For the Employer—Shri M. S. Bandodkar, Advocate.

For the workman—No appearance.

INDUSTRY : Banking

STATE : Goa

Bombay, dated the 6th October, 1989

AWARD

The Central Government by their order No. L-12012/15/86-D.IV(A) dated 15-4-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

"Whether the action of the management of Corporation Bank, Regional Office, Panaji in relation to their Margao, Goa Branch in terminating the services of Shri Uttam Gangaram Redkar, workman w.e.f. 23-5-1985 and in not considering the workman for re-employment in violation of Section 25H of the Industrial Disputes Act, 1947 is justified. If not, to what relief is the workman concerned entitled?"

2. The case of the workman as disclosed from the statement of claim (Ex. 2) in short, is thus :—

He was employed in a permanent vacancy of sub-staff in the service of Corporation Bank in February, 1984. The vacancy was of permanent nature, and not temporary nature. He had got his name registered with the Employment Exchange and he was called for interview by the Bank, was orally interviewed, and was then appointed in the permanent vacancy. He worked for 106 days. However, thereafter his services were illegally terminated by the Bank management. Therefore, the workman prayed for his reinstatement in service with full back wages and continuity of service.

3. The Chief Manager of the Corporation Bank by written statement (Ex. 3) contested the claim of the workman and in substance contended thus :—

The said workman was appointed in the leave vacancy, and he was not appointed in a permanent vacancy. He was appointed only for a limited period. The said workman was interviewed once, however, he was not found suitable for the post. He had worked for 55 days in 1984, and 51 days in 1985. As such he did not acquire any right for regular appointment. His termination of service did not amount to retrenchment. No breach of any of the provisions of the Industrial Disputes Act has been committed by the Bank management. The Chief Manager, therefore, prayed for the dismissal of the workman's claim.

4. On these pleadings the necessary Issues have been framed at Ex. 4.

5. The workman Shri U. G. Redkar filed his affidavit in support of his case at Ex. 5, while the Manager of the Bank Shri Narasinha Narayan Pal filed his affidavit in support of the case of the Bank at Ex. 6.

6. While the case was at the stage of cross-examination, the Bank produced a letter (Ex. 7) showing that the said work-

man is already in the service of the Life Insurance Corporation of India since February 1987, and as such, he is not now interested in the present dispute. The workman also filed an application (Ex. 8) that he has nothing to state in the present case and that the necessary orders be passed.

As such I find that the workman, being already in the service of the Life Insurance Corporation of India, is not interested in the service of the said Bank and as such, the present reference must be simply to be disposed of. As such the Reference stands disposed off.

The parties to bear their own costs of this reference.

Sd/-

P. D. APSHANKAR, Presiding Officer

[No. L-12012/15/86-IV(A)]

N. K. VERMA, Desk Officer

नई दिल्ली, 21 नवम्बर, 1989

का. धा. 3076—सिने कर्मकार कल्याण निधि नियम, 1984 के नियम 3 के उप नियम (1) के साथ पठित सिने कर्मकार कल्याण निधि अधिनियम, 1981 (1981 का 33) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा केन्द्रीय सलाहकार समिति पुनर्गठित करती है जिसमें निम्नलिखित सदस्य होंगे, अर्थात् :

1. केन्द्रीय श्रम राज्य मंत्री —अध्यक्ष
2. अपर सचिव, श्रम मंत्रालय —उपाध्यक्ष
3. महानिदेशक (श्रम कल्याण)/संयुक्त सचिव, श्रम मंत्रालय —सदस्य
4. संयुक्त सचिव (फिल्म), मूखना एवं प्रसारण मंत्रालय —सदस्य
5. कल्याण आयुक्त, भागपुर —सदस्य
6. कल्याण आयुक्त, बंगलोर —सदस्य
7. कल्याण आयुक्त, हैदराबाद —सदस्य
8. कल्याण आयुक्त, कलकत्ता —सदस्य
9. श्री मधु भूदन, आल इंडिया फिल्म एम्प्लॉयज कंफेडरेशन, 231-फेमस सिने बिल्डिंग, डा. ई. मोसिस रोड, महालक्ष्मी, बम्बई-400011 सिने कर्मकार संगठन के प्रतिनिधि
10. श्री चन्द्रशेखर, प्रेजीडेंट, फीडरेशन आफ वेस्टर्न इंडिया सिने इम्प्लॉयज, 231 फेमस सिने बिल्डिंग, डा. ई. मोसिस रोड, महालक्ष्मी बम्बई-400011 यथोक्त
11. श्री रंजन बोस, जनरल सेक्रेटरी, फीडरेशन आफ वेस्टर्न इंडिया सिने इम्प्लॉयज, 231-फेमस सिने बिल्डिंग, डा. ई. मोसिस रोड, महालक्ष्मी-बम्बई-400011 यथोक्त
12. श्री अमिल खट्वा, प्रेजीडेंट, फीडरेशन आफ फ़िल्म ऐम्प्लॉयज एंड रिलेस आफ इस्टर्न इंडिया, 30 चांदी चौक रोड, कलकत्ता-700040 यथोक्त
13. कुं. निष्ठा घोष, सहायक निदेशक, एस-ई., नर्थ एम्प्लू, कलकत्ता-700037 यथोक्त

14. श्री रंगाराजन, बाइस प्रेजीडेंट, फिल्म इम्प्लॉयज फीडरेशन आफ साउथ इंडिया, 57, एचएमएस कृष्णान सलाई (भाईर रोड), मद्रास-600024 सिने कर्मकार संगठन के प्रतिनिधि
15. श्री मोहम्मद नईम, बाइस प्रेजीडेंट, फिल्म इम्प्लॉयज आफ साउथ इंडिया, मद्रास यथोक्त
16. श्री प्रणव कुमार बोस, मार्फत इस्टर्न इंडिया मोशन पिक्चर्स एसोसिएशन, 98, ई. चौरंगी, इस्कन्येर, कलकत्ता-700072 सिने प्रोड्यूसर्स एसोसिएशन के प्रतिनिधि
17. श्री मुक्ता बी. श्रीनिवासन, मार्फत साउथ इंडिया फिल्म चैम्बर आफ कामर्स फिल्म चैम्बर बिल्डिंग, टी. आर. सुन्दरन एम्प्लू., 605 अन्ना सलाई, कैपिटल पोरट, मद्रास-600006 यथोक्त
18. श्री बी. सोमनाथन, प्रेजीडेंट आफ फिल्म प्रोड्यूसर्स गिल्ड आफ साउथ इंडिया, 55, उस्मान रोड, टी. नगर, मद्रास यथोक्त
19. श्री रामराज साहू, मार्फत इंडियन मोशन पिक्चर, प्रोड्यूसर्स एसोसिएशन, आई.एम.पी.ए.ए. हाउस, डा. अम्बेडकर रोड, पाना मार्केट के समीप बांद्रा बम्बई-400050 यथोक्त
20. श्री जी.पी. जर्जे, मार्फत वेस्टर्न इंडिया फिल्म प्रोड्यूसर्स एसोसिएशन फोर्ट चैम्बर, अम्बालाल बोशो मार्ग (हूमन स्ट्रीट), फोर्ट बम्बई-400023 यथोक्त
21. श्री विनय नेत्रालकर, मार्फत अखिल भारतीय मराठी-चित्रपट निर्माता मंडल, मार्फत उदर चित्रा, नाज बिल्डिंग, दूसरा तल, डा. भाडकामकर मार्ग, बम्बई-400004 यथोक्त
22. श्री आत्मा राम, मार्फत एसोसिएशन आफ मोशन पिक्चर्स एंड टी.वी. प्रोग्राम प्रोड्यूसर्स, बम्बई एंडर कंडीमन्ड मार्केट, ब्लाक-ए, वसवी तल, तारदेव, बम्बई-400034 यथोक्त
23. कल्याण प्रशासक, कल्याण-II के अनुभाग, श्रम मंत्रालय, नई दिल्ली। सचिव

केन्द्रीय सलाहकार समिति का मुख्यालय नई दिल्ली में होगा। पदेन सदस्यों के अलावा अन्य सदस्यों की सेवा अवधि तीन वर्ष होगी।

[फा.सं. यू-18025/1/88-कल्याण-4]

बी. जी. नागर, अपर सचिव

New Delhi, the 21st November, 1989

S.O.3076—In exercise of the powers conferred by sub-section (1) of section 6 of Cine Workers Welfare Fund Act, 1981 (33 of 1981) read with sub-rule (1) of rule 3 of the Cine Workers Welfare Fund Rules, 1984, the Central Government hereby reconstitutes the Central Advisory Committee consisting of the following persons, namely :—

- | | |
|---|--|
| 1. Union Minister of State for Labour. | —Chairman |
| 2. Additional Secretary, Ministry of Labour. | —Vice-Chairman |
| 3. Director General (Labour Welfare)/Joint Secretary,
Ministry of labour | —Member. |
| 4. Joint Secretary (Film), Ministry of Information and Broadcasting. | —Member. |
| 5. Welfare Commissioner, Nagpur | —Member. |
| 6. Welfare Commissioner, Bangalore. | —Member. |
| 7. Welfare Commissioner, Hyderabad. | —Member. |
| 8. Welfare Commissioner, Calcutta. | —Member. |
| 9. Shri Madhu Sudan, All Indian Film Employees' Confederation,
231-Famous Cine Building, Dr. E. Moses Road, Mahalaxmi
Bombay—4000 11. | —Representative of Cine Worker's
Organisation |
| 10. Shri Chandra Shekhar, President, Federation of Western India
Cine Employees—231, Famous Cine Building, Dr. E. Moses Road,
Mahalaxmi, Bombay—400 011. | -do- |
| 11. Shri Ranjan Bose, General Secretary, Federation of Western India
Cine Employees, 231-Famous Cine Building, Dr. E. Moses Road.
Mahalaxmi, Bombay—400 011. | -do- |
| 12. Shri Anil Chatterjee, President, Federation of Film Technicians &
Workers of Eastern India, 30-Chandi Ghose Road, Calcutta-700040 | -do- |
| 13. Miss. Neepa Ghose, Assistant Director, S/E, Northern Avenue,
Calcutta-700 037. | -do- |
| 14. Shri Rangarajan, Vice-President, Film Employees' Federation of
South India, 57, N.S. Krishnan Salai (Arcot Road),
Madras-600 024. | -do- |
| 15. Shri Mohamed Nayeem, Vice President, Film Employees of South
India, Madras. | -do- |
| 16. Shri Pranab Kumar Bose, C/o Eastern India Motion Pictures
Association, 98E, Choringhee Square, Calcutta-700 072 | —Representative of Cine Pro-
ducers Organisation. |
| 17. Shri Mukta V. Srinivasan, C/o South Indian Film Chamber of
Commerce Film Chamber Building, T.R. Sundram Avenue,
605, Anna Salai Cathedral Post, Madras-600 006. | -do- |
| 18. Shri V. Somanathan, President of Film Producers Guild of South
India, 55, Usman Road, T. Nagar, Madras. | -do- |
| 19. Shri Ramraj Nahta C/o Indian Motion Picture Producers' Asso-
ciation, IMPAA House, Dr. Ambedkar Road, Near Pali Market —
Bandra (W), Bombay-4000 50 | -do- |
| 20. Shri G.P. Shirke, C/o Western India Film Producers' Association Fort
Chamber, Ambalal Doshi Marg (Haman Street), Fort,
Bombay-400 023. | -do- |

21. Shri Vinay Newalker C/o Akhil Bharatiya Marathi-Chitrapat Nirmata Mandal C/o Udai Chitra, Naaz Building—2nd Floor, Dr. Bhadkamkar Marg, Bombay-400 004. —Representative of Cine Producer's Organisation.
22. Shri Atmaram C/o Association of Motion Picture & T.V. Programme Producers' Bombay Air Conditioned Market, Block-A, 10th Floor, Tardeo, Bombay-400 034. —do-
23. Welfare Administrator, W.II (C) Section, Ministry of Labour, New Delhi. —Secretary

The Head Quarter of the Central Advisory Committee shall be at New Delhi.

The term of the Members, other than Ex-officio Members, shall be for a period of three years.

[F.No. U-18025/1/88-W.IV]

V. D. NAGAR, Under Secy.

नई दिल्ली, 21 नवम्बर, 1989

या.भा. 3077:—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.भा. 1449 दिनांक 24 मई, 1989 द्वारा जिग खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 24 मई, 1989 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः अब, औद्योगिक विवाद, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग की उक्त अधिनियम के प्रयोजनों के लिए 24 नवम्बर, 1989 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/9/85-डी-1 (ए)(1)]

New Delhi, the 21st November, 1989

S.O. 3077.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 1449 dated the 24th May, 1989, the Zinc Mining Industry to be a public utility service for a period of six months, from the 24th May, 1989;

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be public utility service for the purpose of the said Act, for a further period of six months from the 24th November, 1989.

[No. S-11017/9/85-D.I(A)(i)]

का.भा. 3078 :—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.भा. 1450 दिनांक 24 मई, 1989 द्वारा सीसा खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 24 मई, 1989 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 24 नवम्बर, 1989 से छह मास की और कालावधि के लिए उपयोगी सेवा घोषित करती है।

[सं. एस.-11017/9/85-डी-1(ए)(ii)]

नन्द लाल, प्रवर सचिव

S.O. 3078.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 1450 dated the 24th May, 1989, the Lead Mining Industry to be a public utility service for a period of six months, from the 24th May, 1989;

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 24th Nov., 1989.

[No. S-11017/9/85-D.I(A)(ii)]

NAND LAL, Under Secy.

